

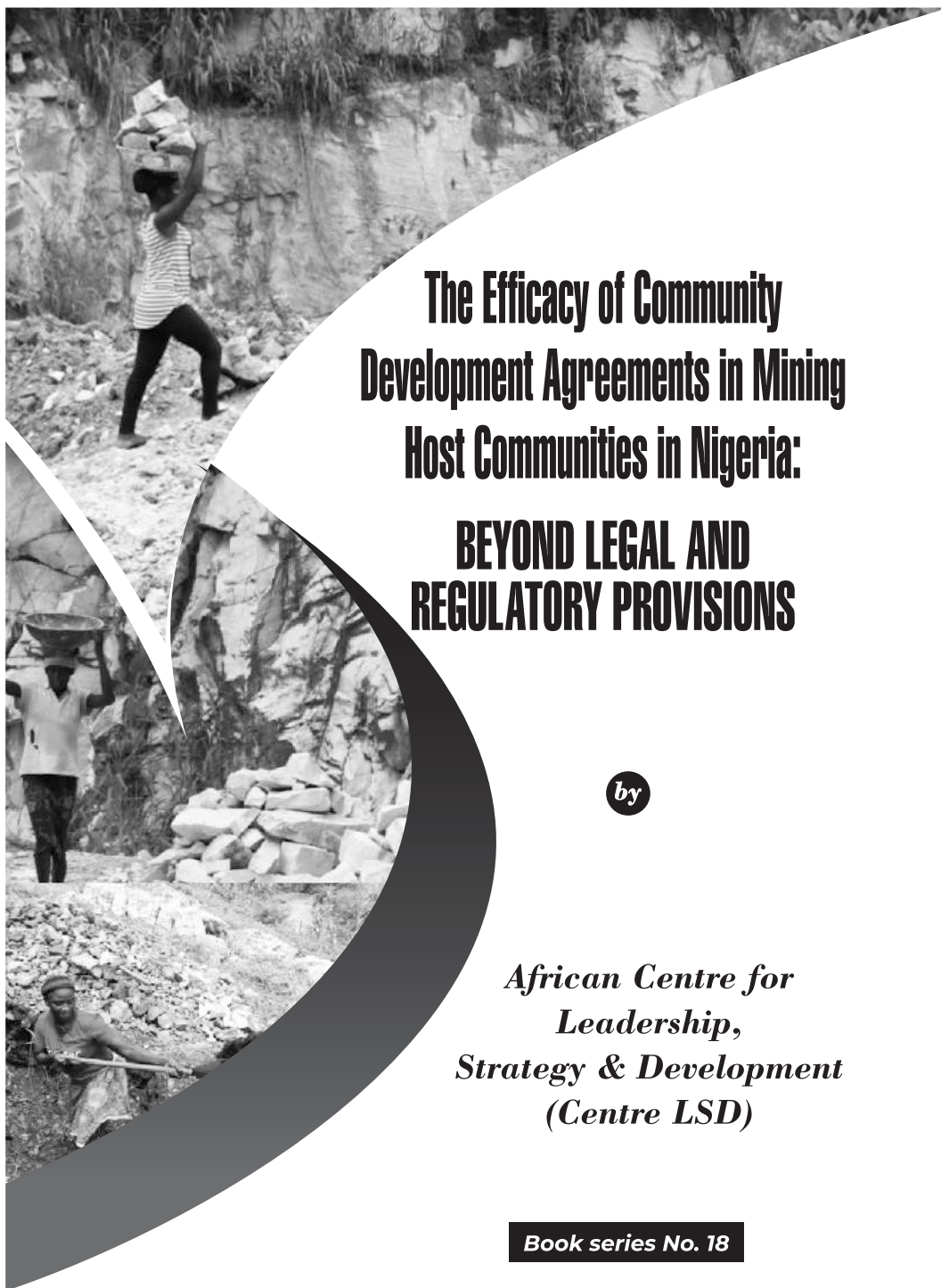
The Efficacy of Community Development Agreements in Mining Host Communities in Nigeria:

BEYOND LEGAL AND REGULATORY PROVISIONS

by

*African Centre for
Leadership,
Strategy & Development
(Centre LSD)*

Book series No. 18



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(Centre LSD)

Contact:

Headquarters:

3B, Niger Avenue, Villa Nova Estate, after Cedar
Crest Hospital, Apo Dutse, Abuja.

Niger Delta Office:

Odeyovwi Villa, Emonu-Orogun, Ughelli North LGA, Delta State.

Northern Regional Office:

N0. 220-221 Police Shop, Waziri street, Opposite Murtala
Mohammed College, Jimeta, Yola, Adamawa State.

Tel: 08122556434

Twitter: @centrelsd

Facebook: @centrelsd

Website: centrelsd.org

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Mr. Monday Osasah, FSM

Executive Director,

African Centre for Leadership, Strategy & Development (Centre LSD)

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LIST OF ACRONYMS

ADC	-	Afao Development Council
BM	-	Before Mining
CDA	-	Community Development Agreement
CDC	-	Community Development Committee
Centre LSD	-	African Centre for Leadership, Strategy & Development
CSR	-	Corporate Social Responsibility
DACDF	-	Diamond Area Community Development Fund
EITI	-	Extractive Industries Transparency Initiative
NEITI	-	Nigeria Extractive Industries Transparency Initiative
ESIA	-	Environmental and Social Impact Assessment
FGD	-	Focus Group Discussion
GMoU	-	Global Memorandum of Understanding
HCDF	-	Host Community Development Fund
HSE	-	Health, Safety and Environment
KII	-	Key Informant Interview
LAM	-	Long After Mining
LGA	-	Local Government Area
MEC	-	Mining Environmental Compliance
MIREMCO	-	Mineral Resources and Environmental Management
MMSD	-	Ministry of Mines and Steel Development
MoU	-	Memorandum of Understanding
NC	-	North-Central
NE	-	North-East
NGO	-	Non-Governmental Organisation
NRC	-	Natural Resource Charter
NRDF	-	Natural Resource Development Fund
NW	-	North-West
ODA	-	Oworo Development Association

PIA	-	Petroleum Industry Act
PWDs	-	Persons with Disabilities
SB	-	Since Birth
SDGs	-	Sustainable Development Goals
SE	-	South-East
SMC	-	Since Mining Company
SS	-	South-South
SW	-	South-West
VPSHR	-	Voluntary Principles on Security and Human Rights

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EXECUTIVE SUMMARY

This study investigated mining community development agreement (CDA) practice in Nigeria within the context of the extant provisions in the *Nigerian Minerals and Mining Act 2007* and the *Nigerian Minerals and Mining Regulations 2011*. It was undertaken against the backdrop of how CDAs are construed as a tool for transferring social and economic benefits of resource extraction to communities as well as a magic wand for resolving perennial conflictual relations between extractive resource companies and their host communities around the globe.

Relying on mixed data collection instruments such as *Survey* (administered in Kebbi, Kogi, Taraba, Ebonyi, Edo and Ekiti states as representative samples of the six geopolitical zones), *Focus Group Discussions (FGDs)*, *Townhall discussions/Key Informant Interviews (KIIs)* and assessment visits to project sites (where logistics permitted), the study highlighted a mix-grill of successes and gaps in mining CDA practices in the country. Success wise, mining CDAs have, to some extent, minimised tensions associated with companies' unregulated quest for natural resource extraction and communities' abstemious demand for development projects as compensation for the negative impact of mining activities. They have opened up channels of communications where mining companies and host communities engage regularly in a sense that promotes peaceful relations. This relative cordial relationship birthed by CDAs has fetched some direct and indirect employment opportunities for community people and boosted local economy, especially petty trading and transportation.

Despite being a global tool for mitigating general and context-specific problems associated with natural resource extraction, mining CDA in Nigeria is replete with enormous gaps across communities. Notably, there is limited public knowledge about its existence, particularly in communities whose interest it was conceived to serve. While all licensed mining companies are fully aware about it (given that it is a pre-condition for mineral extraction), not many people in mining host communities are aware about their rights of participation in the negotiation and implementation of CDA projects as depicted in the enabling mining law and regulations. Thus, besides being sidelined in these processes, communities are made to see CDA projects as

gifts that must be applauded, and not questioned; especially in terms of the size and the quality of project delivery. The situation has not only divided communities along compromised and agitation lines, it has also blocked access to channels of complaint to relevant authorities and prolong conflictual relations.

Perhaps, the biggest gaps in CDA practice across states and communities visited for the study is the sheer disregard for intersectional diversity in the processes for identification and selection of representatives for mining CDA project negotiation and implementation. From both quantitative and qualitative perspectives, analysis of intersectional data of women, youth and persons with disabilities (PWDs) involved in CDA processes across the communities visited shows an unprecedented under-representation. This has, to a large extent, undermined their views and special needs in the projects selected for implementation. Thus, beyond unenviable numbers, the mere recognition that these social categories of persons bear the biggest brunt of dislocations in mining communities (over-work, educational disruption, health hazards, and physical immobility/incapacitation) makes their under-representation a huge marginalization issue deserving of urgent redress.

This, combined with other institutionally targeted recommendations, will enhance the realization of a functional CDA practice model in Nigeria.

Recommendations

A. Government:

The government should pursue:

- Law review leveraging specific good practices of other climes, particularly amendment of the Minerals and Mining Act 2007 and the Minerals and Mining Regulations 2011 to remodel CDA to reflect the Petroleum Host Community Development Fund model. By this, it is meant that Nigeria should adopt a “Fund/Incorporated Trust Approach” to CDA implementation with involvement of states and local governments as against the present practice which places communities at the mercy of mining companies who play lords of the manor;
- Leveraging the Natural Resource Development Fund (NRDF) to prioritise capacity development of mining communities on CDA negotiation, project planning and monitoring in the Incorporated Fund/Trust;
- Review and popularization of the Minerals and Mining Regulations 2011 to emphasise intersectional representation in CDA committees. It should

also in collaboration with civil society lead to a review of MMSD's *Guideline for the Production of Community Development Agreement in the Solid Mineral Sector* (2014) to provide for intersectionality to become a stand-alone issue as against its currently subsumed placement in Chapter One, Section 2.2 covering *Stakeholder Participation*. In that way, marginalization of under-represented groups such as women, youth and PWDs will be taken care of.

- Insistence on benchmarking CDA negotiation against MMSD's *Guideline for the Production of Community Development Agreement in the Solid Mineral Sector* (2014) to enhance appropriate implementation monitoring of outputs and outcomes.
- Strengthening of Mining Environmental Compliance (MEC) Department of the MMSD to ensure effective monitoring and enforcement of compliance of provisions in the Minerals and Mining Act (2007) and the Minerals and Mining Regulations (2011) through adequate recruitment of staff with the requisite capacities to deliver on their state-level responsibilities;
- Insistence on compliance with provisions in the Minerals and Mining Act (2007) and Guidelines (2011) that CDAs are a pre-condition for commencement of mining operations in communities and not an after-commencement of mining operations' activity;
- Recognition of community rights to receive MMSD response to complaints about companies' breach of the terms of duly signed CDAs as part of early warning, early response mechanisms for conflict prevention and resolution; and
- Institutionalisation of feedback mechanisms, including annual reporting and appraisal of CDA implementation by CDA Committee through MEC officers in the states to MMSD and activation of social protection policy for CDA and project documents.

B. Mining Companies

Mining companies should ensure:

- Prioritisation of community happiness, while pursuing profit. This includes addressing genuine needs of the community and paying due attention to labour laws, especially CDA-propelled employment issues of payment of minimum wage and guarantee of Health, Safety and Environment (HSE) rights;
- Conceptualisation of community benefits beyond money-sharing to capture more sustainable benefits in the areas of education,

infrastructure, employment, development of local economy as well as trainings that address challenges of socio-economic problems,

- Adoption of collaborative CDA models in communities with small-scale mining companies to maximize development impact.
- Resistance to temptation to engage in divide and rule approach to CDA project negotiation, implementation and monitoring.

C. Communities

Mining communities need to ensure:

- Moderation of expectations and obsession with pecuniary gratifications over more enduring long term community interests and benefits;
- Prioritisation of Human Development-inclined projects than worship centres during CDA project negotiation and execution;
- Targeting of CDA to Leverage diverse opportunities in the mining value chain to grow local economy, including taking advantage of formalisation of mining cooperative societies in small and medium-scale artisanal mining;
- Inclusive representation of the different social groups in the CDA governance structure for purposes of intersectional balance (women, youth and PWDs); and
- Collective responsibility for CDA project negotiation, implementation and monitoring for quality assurance.

D. Civil Society

There is so much civil society can do to ensure:

- Sensitisation and facilitation of trainings for communities to enhance their capacity and ability to articulate and negotiate good deals with mining companies;
- Monitoring of implementation terms and specifications of CDA projects for quality delivery;
- Collaboration with the MMSD to review, update, mass-produce, circulate and train communities on the 2014 *Guidelines for the Production Community Development Agreement in the Solid Mineral Sector*;
- Engagement with relevant stakeholders in the mining sector (including Miners Association of Nigeria and Women in Mining in Nigeria) on the

desired reforms of CDA practice and the need for self-regulation and self-censorship; and

- Facilitation of development of broad-based metrics/instruments for shadow-reporting and ranking parties in CDA implementation (CDA Watch/Index) in Nigeria.

1.0 Introduction: Background, Context and Rationale

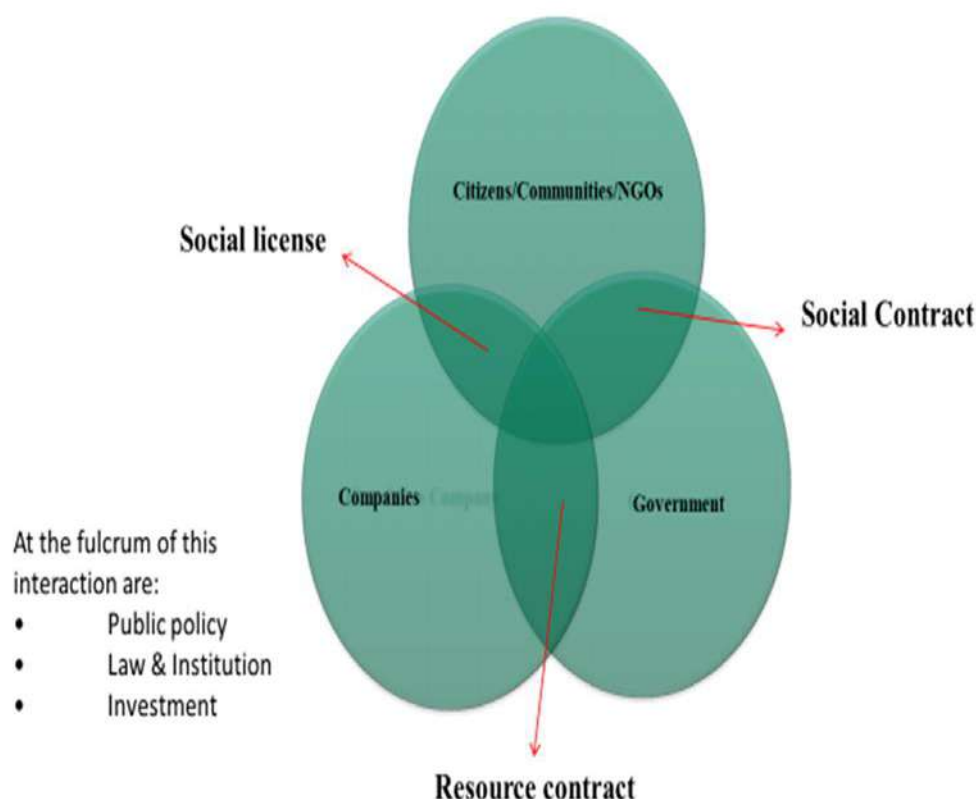
Natural resources have the potential to facilitate or ruin the fortunes of countries rich in them, depending on the mechanisms in place to regulate and enforce their governance. From sustainable development perspective, the governments of countries rich in natural resources are expected to weigh the social and environmental impacts of the extraction of such resources against their potential economic benefits before taking concrete decisions to extract them. Such decisions do not only define the path, the depth and the dimensions such extraction should take, they also address how to mitigate the negative impact of the extraction to the barest minimum.

Over time, the neglect of these critical decisions has made natural resource extraction to be construed as a harbinger of socio-economic and environmental dislocation, conflict, poverty and underdevelopment. *Resource curse*, the idea that countries rich in natural resources “often perform worse in terms of economic development and good governance than do countries with fewer resources”¹ has been used to describe the lots of many resource-abundance countries, including Nigeria.

Globally, there have been collective efforts to mitigate both general and context-specific issues of (mis)governance and negative impacts associated with natural resource extraction to ensure a win-win for diverse stakeholders. Figure 1.1 presents a diagrammatic picture of stakeholders’ rights and responsibilities in natural resource extraction, at least, within the context of what is possible to transform the situation. The government, be it central or subnational (i.e. state/local), is in an interlocked relationship with extractive companies and communities in sharing the rights of “Social contract”, “Social license” and “Resource contract.” The functionality of the relationship is not only dependent on the coordination of public policy, law and institutions, but also on the effectiveness of the investment deployed.

¹ Humphreys, M., Sachs, J. D. & Stiglitz, J.E. (2007). What Is the Problem with Natural Resource Wealth? In Humphreys, Jeffrey D. Sachs, and Joseph E. Stiglitz (Editors). *Escaping the Resource Curse*. New York: Columbia University Press

Figure 1.1: Intersection of Stakeholders in the Mining Sector



In no order of importance, some of these initiatives and frameworks that have evolved either solely or associated(ly) in the extractive sector are:

- The *Equator Principles (lending principles)*: a framework for assessing and determining environmental and social risk management in project financing by financial institutions;
- The *Kimberley Process (Certification Scheme)*: a commitment by governments, civil society and industry operators to remove conflict diamonds from global supply chain;
- The *Voluntary Principles on Security and Human Rights (VPSHR)*: a 2000 initiative of governments, non-governmental organisations and companies that provides directions on safety and security of operations of extractive companies in a manner that guarantees respect for human rights and fundamental freedoms;
- The *Extractive Industries Transparency Initiative (EITI)*: a global platform of governments, companies and civil society organizations that seek to promote open and accountable management of oil, gas and minerals;
- The *Natural Resource Charter (NRC)*: a set of principles developed by experts to facilitate policy thinking around context and diverse options

and approaches to governments and societies about effective natural resource management; and

- The *Community Development Arrangement*: a reference to diverse nomenclatures (CDA, CSR, etc) of documented negotiation between an extractive industry company and its host-community detailing how the latter will access socio-economic benefits (development) from the former in exchange for *social license* with the company, leveraging different governance mechanisms and tools.

Most of these instruments are multi-stakeholder-construed and designed to operate solely at international level. Some are deliberately structured to function with national sub-sets (country chapters), while others, devoid of any formal institutional loop, function loosely as common global practices. Community Development Agreements (CDAs) fall under the third classification. Barring their differences, the three categories of instruments share some remarkable flexibilities, and their modus operandi are amenable to local contexts, dynamics and realities. This has been particularly positive and progressive, despite the “significant divergence in the manner and effectiveness in which such programmes were implemented.”²

Anchor on a growing expectation that “extractive industries should contribute positively to the long-term development goals of affected communities and countries”, CDA prominence and global attention derives from continued emphasis on benefits sharing and equity, globalization, demand for accountability, business strategy and regulatory requirements.³ Its progressive delivery anchors on the extent to which it has become an institutionalized remedy to many decades of (mis)governance and conflicts over natural resource wealth in many countries.

In Nigeria, mining CDA practice anchors on the provisions of the *Nigerian Minerals and Mining Act, 2007* and the *Nigerian Minerals and Mining Regulations 2011*. It shares similarities with the Global Memorandum of

² World Bank & UNCTAD, Community Development Agreements: What Research and Experience Tell Us. Available at: <file:///C:/Users/DAUDA%20GARUBA/Documents/Presentations/Centre%20LSD/Centre%20LSD%20Consultancy/World%20Bank%20Guidance%20on%20CDAs.pdf>

³ Bocoum, Boubacar; Sarkar, Sunrita; Gow-Smith, Alastair; Morakinyo, Tunde; Frau, Roberto; Kuniholm, Matthew; Otto, James M. (2012). *Mining Community Development Agreements: Source Book* (English). Washington, D.C: World Bank Group, p.15
<http://documents.worldbank.org/curated/en/522211468329663554/Mining-community-development-agreements-source-book>

Understanding (GMOU) that is practiced in the Niger Delta region by Chevron and Shell oil companies. The GMOU itself is an attempt to transform the old practice of Memorandum of Understanding (MoU) approach of Corporate Social Responsibility (CSR) practice.

It underscores the need to facilitate peaceful relations between extractive companies and their hosts communities, using different governance mechanisms and tools. Until the enactment of the Petroleum Industry Act, 2021 (PIA 2021) which provided for the Host Community Development Fund (HCDF), GMOUs and CDAs were the standard policy approach for transferring social and economic benefits to oil/gas and mining host communities, respectively, in Nigeria. While the first scheme is neither enshrined in law nor any practised rules of government for oil companies operating in the country, the latter is provided for in the Nigerian Minerals and Mining Act 2007 and the Nigerian Minerals and Mining Regulations 2011. Both the law and the regulations have supposedly operated for over a decade, and as such are deserving of appraisal. This is necessary because the progress signified by CDA implementation across countries where it is practised are not necessarily *sui generis*, but subject to the strength of policy, legal backing and enforcement by countries.

This study thus investigates the implementation of the mining CDAs in Nigeria within the context of the extant provisions of the minerals and mining law and regulations that birthed them. More specifically, the study highlights the successes of mining CDAs as well as identifies gaps in their implementation with a view to proffering solutions on how they can better enhance the transfer of social and economic benefits to mining host communities.

Among the questions interrogated are:

- To what extent are CDAs a common practice in mining communities in Nigeria?
- How open is their governance processes to intersectional representation and participation of women, youth and PWDs?
- What specific sensibilities are reflected in CDA project negotiation, implementation and monitoring?
- What are the levels of adequacy and satisfaction with CDA projects?
- In what specific sense have CDAs compensated for the negative impact of mining operations on livelihood and land use in communities?

- How best can CDA practice be enhanced, and What comparative insights of lessons learned in other climes can be leveraged to realise a functional CDA model in Nigeria?

This report is divided into six parts. Closely following this introduction is a conceptual discourse of CDA and the perspectives of its practice within the African natural resource extraction sector. Section three is methodology which details the approaches adopted for data collection, the challenges encountered, and the mitigation measures adopted. The fourth section covers presentation and interpretation of data collected with questionnaire and other complementary tools such as Focus Group Discussions (FGDs), Key Informant Interviews (KIIs) and field observation. Section five attempts an analysis of findings, leveraging triangulation techniques in a sense that takes into account validity and reliability of submissions made, while section six provides concluding remarks and recommendations.

2.0. Community Development Agreement:

2.1. A Conceptual Discourse and Processes

Achieving balance in community-company relations in the extractive industry sector is a costly, time-consuming and energy sapping assignment. However, ignoring such an assignment in the face of compelling threats to investments can be more expensive and disingenuous, especially in terms of its potential for widespread community conflicts, impending consequences of declaration of force majeure, and reputational risks to investors and governments.

Community Development Agreement (CDA) is thus a broad concept used in diverse sectors, including agriculture and the natural resource extraction, to mitigate the negative impact of extraction in many natural resource-producing countries around the world. It is a progressive approach to resolving company-community conflicts over natural resource extraction in that it “offers the potential to inform, engage and resolve disputes at local levels.”⁴

In the mining sector where it has assumed significant use, CDAs are conceived to help resolve the tensions between the growing demand for sustainable development⁵ and the demand for natural resources. By definition, CDA is an

⁴ Troy Sternberg, Ariell Ahearn & Fiona McConnell, “From conflict to a Community Development Agreement: a South Gobi solution.” *Community Development Journal*, Vol. 55(3), July 2020, pp. 533–538.

⁵ Sustainable development here refers to the concept from its 1982 and 1987 uses at the World Commission on Environment and Development (the Brundtland Commission) which emphasizes “development that meets the needs of the present without compromising the ability of the future generations to meet their own needs” to its expanded definition at the 2002 World Sustainable Development Summit in South Africa, including socio-

explicitly written and co-signed agreement on local visions and needs for development between a resource-abundance community and an extractive company (investor), negotiated through a process of consultation.⁶ There are about one and half dozen different names for CDA⁷ as much as the considerably varied details of their contents; despite the similarity of their central objective – i.e. to promote participatory development through transfer of resource extraction benefits to communities. CDAs are construed “to ensure that communities share in the value added created by local large-scale investments”⁸ in their environment. Put differently, they are a response to expressed concerns and dislocations caused by mining activities in communities. They seek to promote the sustained development of mine-impacted communities, especially in the context of the debate around costs and benefits of mineral development.

The emergence of CDAs anchors on the inadequacy of unilateral regulatory efforts of government and the voluntary initiatives of companies to deliver standard practices capable of meeting the development concerns of extractive resource communities. This historic yoke is what the growing demand for mining benefits by communities from the companies and the latter’s need for “social license to operate” in host communities that CDAs are construed to break.

Although construed from the perspective of corporate social responsibility (CSR), CDAs could be described as CSR-Plus (CSR+) in that they are fashioned as institutionalized mutual development strategies with room for diversity of voices. The extent of amplification of the voices in CDAs is not solely dependent on the historical experiences and legal regimes of the countries where they are adopted and operated. It is also dependent on the collective strength and powers of the communities that governments seek to enhance

economic and environmental protection which acknowledges its Intrinsically ambiguous relationship between natural resource extraction and the sustainability of mines and the mining sector through environmental responsibility. See Dauda Garuba, Dieter Bassi Olubukola Moronkola, “Introduction: The Sustainability Question about Women, Youth and Other Vulnerable Groups in Nigeria’s Mining Communities.” *Impact of Mining on Women, Youth and Others in Selected Communities in Nigeria*. Abuja: Nigeria Extractive Industries Transparency Initiative, p.10.

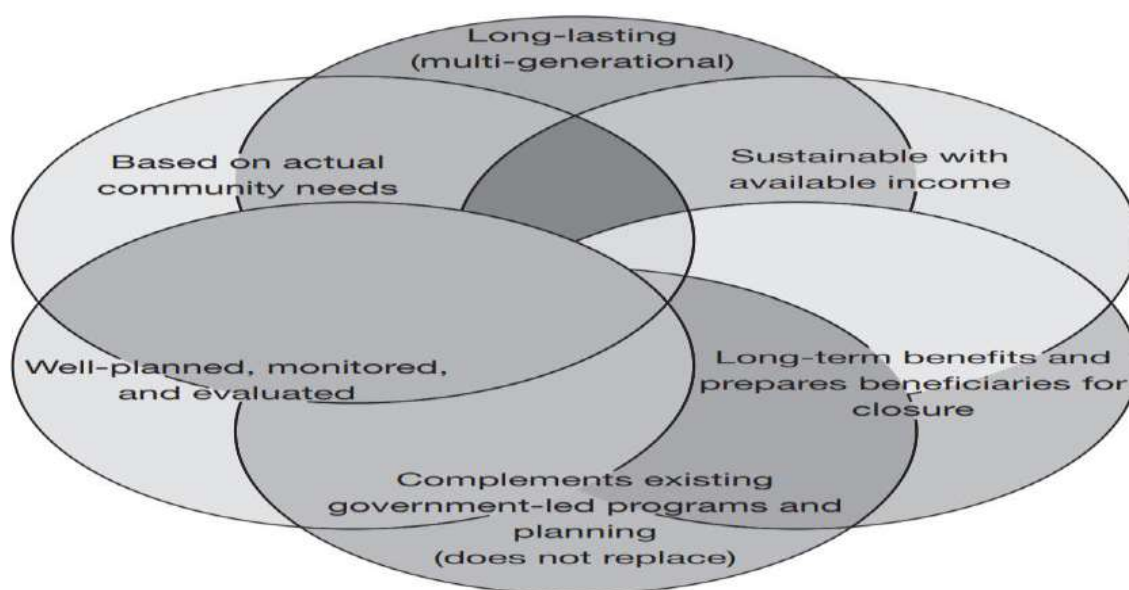
⁶ Ibid.

⁷ Among the diverse terms used to describe CDAs are: Benefits Sharing Agreements, Community Contracts, Community Development Initiatives, Community Joint Ventures Landowner Agreements, Empowerment Agreements, Exploration Agreements, Impact Benefit Agreements (IBAs), Investment Agreements, Participation Agreements, Partnership Agreements, Shared Responsibility Agreements, Social Trust Funds, Voluntary Agreements.

⁸ World Bank & UNCTAD, *Op. Cit*, p,1.

through legislation to effect negotiated agreement, negotiated conditions of access/use of traditional lands, and negotiated resolution of company/host-community conflicts. Deriving from government powers of legislation, the core of CDA development leverages certain core principles identified as: lasting duration, community needs, income-backed sustainability, effective plan and feedback mechanisms, enduring benefits and beneficiation, and complementary (not supplanting) to government-led programs. Figure 3.1 paints a graphic picture of the principles.

Figure 2.1: Core Principles of CDA



Source: Derived from Bocoum and Otto (2010) as cited in Bocoum, Boubacar; Sarkar, Sunrita; Gow-Smith, Alastair; Morakinyo, Tunde; Frau, Roberto; Kuniholm, Matthew; Otto, James M. (2012). *Mining Community Development Agreements: Source Book (English)*. Washington, D.C: World Bank Group, p.10. Available at: <http://documents.worldbank.org/curated/en/522211468329663554/Mining-community-development-agreements-source-book>

2.2. Perspectives on Practices

Across countries, legal and operational designs of mining CDAs are structured differently, depending on local realities and focus of beneficiaries. Among the different ways of implementing CDAs in natural resource producing countries are revenue sharing or some other monetary compensation, service delivery (education and health), training on societal problems, occupation change and diversification of livelihood, and infrastructure delivery, to mention a few. In some climes, subnational transfers and special development funds have also featured as added context to CDA practice.⁹ Table 3.1 shows various policy and

⁹ Columbia Centre on Sustainable Investment (2017). "Requirements for Community Development in Mining Laws. New York: Columbia University, p.1.

legal requirements for CDA development with different types, approaches and geographical focus.

Table 2.1: Policy/Legal Requirements and Practice Types/Approaches in Africa

S/N	Country	Policy & Legal Reference for CDA	Type of CDA (Plan/Agreement)	Focus
1.	Burkina Faso	<ul style="list-style-type: none"> • Mining Code (2015, Law No. 036-2015/CNT) 	Nationally managed Fund	Local
2.	Central Africa Republic	<ul style="list-style-type: none"> • Law No. 09-005 of 2009 (Mining Code) • Decree No. 09-126 (implements Law No. 005 of 2009) 	Plan	Local
3.	Democratic Republic of Congo	<ul style="list-style-type: none"> • Law 007 of 2002 (Mining Law) • Decree No. 038/2003 (Mar. 26, 2003) 	Plan/Revenue payment by company to local level	Local
4.	Equatorial Guinea	<ul style="list-style-type: none"> • Law No. 9/2006 	General	Local
5.	Ethiopia	<ul style="list-style-type: none"> • Mining Operations Proclamation No. 678/2010 	General/Plan	Local
6.	Ghana	<ul style="list-style-type: none"> • Minerals and Mining Policy of Ghana (November 2014) 	General/Nationally managed fund	Local
7.	Guinea	<ul style="list-style-type: none"> • Law 2011/006 (Mining Code of 2011, amended in 2013 by Law L/2013/053/CNT) 	Agreement/Fund	Local
8.	Kenya	<ul style="list-style-type: none"> • The Mining Act, No. 12 of 2016 • The Mining (Community Development Agreement) Regulations, 2017 • Mining (License and Permit) Regulations 2017 	Agreement	Local
9.	Liberia	<ul style="list-style-type: none"> • Minerals Policy of Liberia (March 2010) • Regulations Governing Exploration Under a Mineral Exploration License of the Republic of Liberia (March 2010) • Minerals and Mining Law (April 3, 2000) 	Nationally managed fund	Local
10.	Mali	<ul style="list-style-type: none"> • Law No. 2012-015 of February 27, 2012 (Mining Code) 	Plan	Local

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		<ul style="list-style-type: none"> Decree No. 2012-311/P-RM of June 21, 2012 (amended by Decree No. 2013-690/P-RM, Aug. 28, 2013) 		
11.	Mozambique	<ul style="list-style-type: none"> Mining Law (Law no. 20/2014): CSR Policy (Resolução 21/2014 Governo de Moçambique, 2014) 	Agreement/Nationally managed revenue	Regional/Local
12.	Namibia	<ul style="list-style-type: none"> Part 4 – additional conditions for mining and exclusive prospecting licenses (2016) Minerals Policy of Namibia 	General	Local
S/N	Country	Policy & Legal Reference for CDA	Type of CDA (Plan/Agreement)	Focus
13.	Niger	<ul style="list-style-type: none"> Mining Code of 1993 (as updated in 1999 and 2006) 	Nationally managed fund/Revenue payment by company to local level	Regional
14.	Nigeria	<ul style="list-style-type: none"> Minerals and Mining Act (2007) Minerals and Mining Regulations (2011) 	Agreement	Local
15.	Sierra Leone	<ul style="list-style-type: none"> Mines and Minerals Act (2009) Regulation to the Mines and Minerals Act 2009 Diamond Area Community Development Fund (DACDF) policy (2001) 	Agreement/Nationally managed fund	Local
16.	South Africa	<ul style="list-style-type: none"> Mineral and Petroleum Resources Development Act (“MPRDA”) (Act No. 28 of 2002, amended in 2005 and in 2008 (No. 49 of 2008): Mineral and Petroleum Resources Development Regulations (April 2004), amended in 2004, 2006, 2011 & 2015) Codes of Good Practice for the South African Minerals Industry (April 2009): 	Plan/Revenue payment by company to local level	Level
17.	South Sudan	<ul style="list-style-type: none"> Mining Act 2012 Mining (Mineral Title) Regulations 2015: 	Agreement	Local
18.	Togo	<ul style="list-style-type: none"> Reform of Law 96-004/PR (Mining Code, amended by Law No. 2003-012, October 2003); Law No. 2011-008 (Mining company contribution to local and regional development (“Relative à la contribution des entreprises minières au développement local et régional”), May 2011) 	General	Local/Regional

19.	Zambia	<ul style="list-style-type: none"> Mines and Minerals Development Act, 2015 (No. 11 of 2015, amended in 2016) 	General	Local
20.	Zimbabwe	<ul style="list-style-type: none"> Indigenisation and Economic Empowerment Act (2007) and General Notice 114 of 2011 Indigenisation and Economic Empowerment (General) Regulations, 2010 (SI 21 of 2010) 	Revenue payment by company to local level	Local

Source: Compiled and updated from a review of Columbia Centre on Community Development (2017). "Requirements for Community Development in Mining Laws." Available at: <https://justice-project.org/wp-content/uploads/2017/08/mining-community-development-requirements-summary-table-ccsi-2017-february.pdf>

From the above, it is obvious that countries recognize that mining produces enormous negative impacts on host communities which are deserving of remediation. Many governments have formulated policies and enacted laws to redress these negative impacts through broad CDA classifications, namely: *Arrangement types* (Agreement/Plan), *Approaches*, and *Geographical focus of implementation*. The arrangement types are either negotiated Agreements/MoU between mining companies and their host communities or by Plans defined in public policy. Table 2.1 highlights the practice in 20 African countries, including Nigeria.

Comparatively, the revenue/management sources of the different arrangements derive from:

- Establishment of nationally managed or subnational transfer fund from which CDA projects are financed (exclusive to Burkina Faso and Liberia);
- Direct payment by companies to local levels from which CDA projects are financed (exclusively practiced in Central African Republic and Mali); and
- Mix practice of national government and company co-payment arrangement for CDA projects (Exclusive to Guinea where 0.5% and 1% of company turnover is legislated for Local Economic Development Fund and Republic of Niger where 15% of mining income to the government goes to community development).

The geography of beneficiaries is either "Local", "Regional" or "Mix", where "Local" means village/carton, "Regional", prefecture concerned, and "Mix" both "Local" and "Regional" in one CDA practice. Except for Mozambique and Togo where CDA interventions could be shared between local and regional area, all other 18 African countries in the table have their CDA agreements, plans and implementation restricted to local area.

Notwithstanding the commonalities of the sustainable development contents in the CDA regimes across the countries listed in the table, other specific rules and practices are emphasized in some of the countries. Among these are:

- Provisions for detailed guidance, appointment of representatives and consultation process in the CDA project negotiation based on prioritization of community needs, health, safety, and environment (Zambia and Nigeria)
- Powers of regulatory minister to, after due consultation with relevant central and subnational authorities, determine mining “host community” and resolve pending CDA issues on which companies and communities are unable to reach agreement (Nigeria).
- Legislation on CDA funding from Royalty payments (Burkina Faso, Democratic Republic of Congo), Ghana, and South Africa).
- Legislation on pre-determined percentage of revenues to fund community development projects, contribution of 0.5% to 1% of their turnover to the Local Economic Development Fund in Guinea and redistribution of 15% of mining income of government to community development in Niger; and designation of 25% of the 3% tax on diamond for the *Diamond Area Community Development Fund (DACDF)* in Sierra Leone.
- Designation of certain social category of persons such as youth and women for special poverty reduction attention in Namibia.
- Provision for suspension and revocation of mining licenses due to substantial non-compliance to the requirements set out in mining laws and regulations (Kenya, South Africa and South Sudan).
- Provision for periodic reviews and updates of CDAs - (every 2 years in Mali and every 5 years in Nigeria and Sierra Leone).
- Submission of status report of implementation of CDA activities (monthly in South Africa and Sudan).

Opinion varies about the processes and stages of making a CDA, depicting that there is no-one-size-fit-all approach to it. A source identified three broad stages, namely: pre-negotiation, research and consultation, and negotiation and endorsement of final agreement process.¹⁰ All three stages, according to the source, conflate, intersect, or occur in a slightly different order. The pre-

¹⁰Jennifer Loutit, Jacqueline Mandelbaum & Sam Szoke-Burke, “Emerging Practices in Community Development Agreements.: *Afe Babalola University Journal of Sustainable Development, Law and Policy*, Vol. 7(1), pp. 64-96.

negotiation stage mirrors the laying and adoption of framework for the CDA; the research and consultation stage involve stakeholders' mapping and identification of would-be victims of Environmental and Social Impact Assessment (ESIA) for special attention; while the negotiation and endorsement of final agreement stage attends to concrete decisions reached and binding commitments by parties (companies and communities). Despite the observed divergence in the expressed views about the stages of CDA-making processes, project implementation and monitoring are a constant to ensuring compliance and transfer of social and economic benefits thereafter.

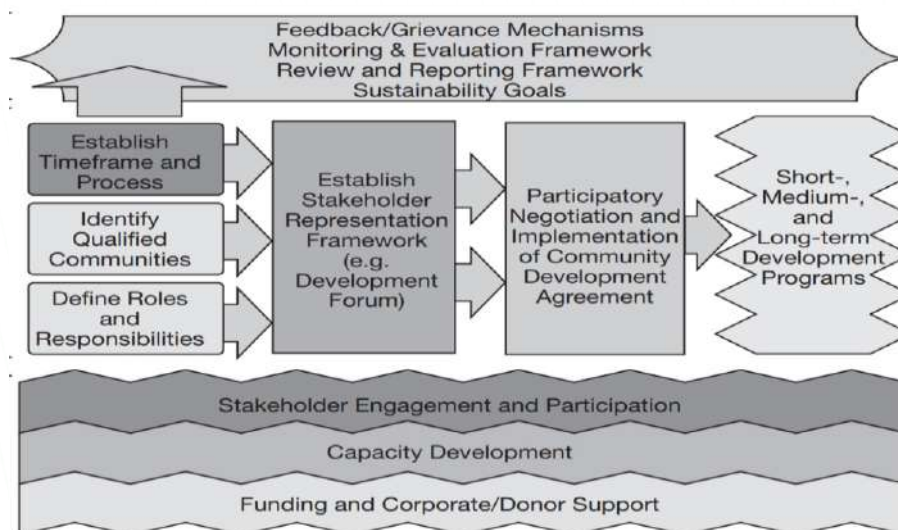
Oxfam has also identified a six-step guide to achieving CDAs, comprising Stakeholder and community mapping, Community capacity and organization, Community preparation of the agreement, Construction, and negotiation of CDA, Implementation of CDA and Review of CDA. The World Bank has helped to popularize the six-step guide in one of its publications¹¹, while it also identified the four content and process phases of making a successful CDA in yet another of its publications.¹² The phases are Stakeholder mapping, Capacity development, Stakeholder representation, and Implementation and feedback mechanisms.

Across the steps identified by both Oxfam and World Bank, stakeholder mapping stage involves identification and analysis of potential qualified communities, stakeholders, and other interest groups with whom an engagement plan will be developed. Capacity development phase covers capacity needs assessment through which development programmes and implementation plans are built with potential partners selected. Stakeholder representation stage focuses on the selection/election of community representatives entrusted with the mandate to articulate and negotiate CDAs on behalf of the community. The implementation and feedback process embodies closer attention to the various pre-agreed instruments/clauses in the CDAs such as strategic aims, management board, local procurement, participatory needs assessment and capacity development target and parameters for investment activities. Figure 2.2 provides a graphic flowchart of how it works.

¹¹ World Bank & UNCTAD, *Op.Cit.*, p.3.

¹² Bocoum, Boubacar et al, *Op. Cit*, p.15

Figure 2.2: Flowchart of CDA-Making Process



Source: Bocoum, Boubacar; Sarkar, Sunrita; Gow-Smith, Alastair; Morakinyo, Tunde; Frau, Roberto; Kuniholm, Matthew; Otto, James M. (2012). *Mining Community Development Agreements: Source Book (English)*. Washington, D.C: World Bank Group, p.15
<http://documents.worldbank.org/curated/en/522211468329663554/Mining-community-development-agreements-source-book>

To the extent to which parties have complied with the terms of their agreements, CDA approach has recorded relative progress in the area of community-company conflict resolution. Through established channels of communications, many companies have learnt to listen to community concerns, while the communities have also learnt to moderate their expectations while pushing for implementation of agreed activities in the CDA. Under such a peaceful condition, communities enjoyed some reasonable level of transfer of social and economic benefits through implementation of scholarship schemes, training and empowerment programmes, construction of roads, schools, health facilities, roads among others. Indeed, the growing interest in CDA practice across government, companies, mining companies and civil society derives from the successes that it has recorded.

However, CDA practice has not been without its challenges. The sheer absence of a common framework, even though good for easy adaptation for specific peculiarities of communities and resource strength of companies, has precipitated divergent CDA implementation approaches resulting in varying outcomes. Also, there are unresolved issues such as unequal bargaining relationships between companies and their host communities; equity in the distribution of benefits, and enforceability and implementation of agreements.¹³ From the processes of their mapping through negotiations,

¹³ Ciaran O'Faircheallaigh (2013) Community development agreements in the mining industry: an emerging global phenomenon, *Community Development*, Vol. 44(2), p. 222.

implementation and feedback, CDAs are an effective mechanism for promoting beneficial objectives among mining companies and communities. Overall benefits are dependent on the collective will of the parties involved and the mechanisms in place to monitor implementation and response to feedback.

2.3. Mining CDAs in Nigeria: A Result-Oriented Approach to Problem-Solving?

Nigeria has a history of recurring confrontations between oil, gas and mining companies and host communities over differences related to the social and economic benefits of natural resource extraction, and the ecological and environmental destruction associated with such extraction. Beyond compensating for ecological and environmental degradation, CDAs are thus a latent tool by mining companies in the country to give a facelift to communities and redress poverty and underdevelopment associated with mining. Put differently, to the extent to which they promote acceptance, restore trust and confidence, CDAs offer mining entities the social license to operate in exchange for social and economic benefits of mining in communities.

Unlike the MoU and GMoU policies now redefined as Host Community Development Fund (HCDF) under the Petroleum Industry Act 2021 (PIA 2021), mining CDAs have had legal and implementation backing under the Nigerian Minerals and Mining Act, 2007 and the Nigerian Minerals and Mining Regulations, 2011. In specific terms, Section 116(1) of the Minerals and Mining Act 2007 provides that:

...the Holder of a Mining Lease, Small Scale Mining Lease or Quarry Lease shall prior to the commencement of any development activity within the lease area, conclude with the host community where the operations are to be conducted an agreement referred to as a Community Development Agreement or other such agreement that will ensure the transfer of social and economic benefits to the community.

Sections 116(2-5) provides that CDAs shall contain the social and economic contributions that the mining projects will make to the sustainability of such communities; relevant among which are:

- Knowledge and capacity development (i.e. educational scholarships, vocational training and employment opportunities),
- Support for infrastructural development and maintenance in key service delivery areas (education, healthcare, roads, water and power)

- Assistance (creation, development and support to small scale and micro enterprises),
- Agricultural product marketing, and
- Enhancement of environmental and socio-economic management and local governance.

The law provides that failure in the negotiations shall be referred to the Minister for amicable resolution, while all CDAs shall be due for review every five years. Adding that until reviewed by parties, subsisting ones shall have binding effect.

Complementarily, Sections 193(1-14) of the Nigerian Minerals and Mining Regulations issued in 2011 to give effect to the provisions in the Act drilled further down on CDA implementation provisions in the Minerals and Mining Act, 2007, detailing responsibilities to state governments and relevant institutions such as the Mines Environmental Compliance (MEC) Department and the Mineral Resources and Environmental Management Committees (MIREMCOs). Section 193 of the 2011 Regulations emphasized consultation with host communities in implementing CDAs (Section 193(2), and submission of Community Development Action Plans to the Mines Environment and Compliance (MEC) Department in the Ministry of Mines and Steel Development (MMSD) (see Section 193[3]).

All Community Development Action Plans are expected to address the Implementation Plan of all the social concerns raised in the Environmental and Social Impact Assessment (ESIA) study, and the Implementation Plan of the contents of the CDAs. Section 193(5a-c), for the purpose of CDA, defines “host community” in the 2011 Guidelines as the community:

- where a mineral title is located or closest to, or
- where the Minister in consultation with the State Government, the State Mineral Resources and Environmental Management Committee and (MIREMCO) and other relevant state or Federal Government Agencies determine as host community, or
- Where the Minister, notwithstanding the provisions of this part, determines in any other manner as host community.

Sub-section 6 of the Regulations recognizes only persons freely chosen by the generality of the community to be signatories to the CDA. Sub-section 7 requires the Head of the Community to submit to the MMSD the full names and addresses of the representatives of the community whose members shall

range between three and seven for necessary verification and consultation with the State MIREMCO and the Chairman of the Local Government before the CDA is signed. Any dispute or complaint arising from CDA implementation shall be referred to the Minister for amicable resolution.

In a bid to promote an easy implementation of CDA in Nigeria's mining sector, the Ministry of Mines and Steel Development (MMSD) developed the *Guidelines for the Production of Community Development Agreement in the Solid Mineral Sector* for use by diverse stakeholders, including Mineral Title Holders, Mining community members, civil society, CDA document drafter and the public. Relying on the mining law and regulations, the guidelines provide and specify:

- the key elements and contents of the CDA,
- the acceptable structure for it,
- the appropriate consultative and monitoring frameworks of implementation, and
- community participation in the planning, implementation, management and monitoring of activities.

Within the purvey of the relevant sections of the law and regulations, the guidelines highlighted the significance of timeframe and process for CDAs with provision for “withdrawal of agreement”, Stakeholders participation for local ownership and link to existing programmes and development process, and capacity development prior to commencement of negotiation. Others are community identification beyond the immediate mining project area to include transportation route, supply chain, employment catchment area, and other areas for cultural/traditional purposes (e.g. shrine). Community representation (between three and seven persons) working through head of communities, project funding (Mineral Title Holders), grievance and dispute resolution mechanisms, and CDA project monitoring also form the provisions in the guidelines.¹⁴

Both the Nigerian Minerals and Mining Act, 2007 and the Nigerian Minerals and Mining Regulations have spanned over 15 years and 11 years respectively. A study by the Nigeria Extractive Industries Transparency Initiative (NEITI) launched in October 2020 alluded to some tangible successes of general reforms in the mining sector, including the CDAs. Notwithstanding the

¹⁴ See MMSD (2014). *Guidelines for the Production of Community Development Agreement in the Solid Mineral Sector*, Abuja, pp.2-4.

milestones identified, the study also identified a gamut of challenges in the entire reform processes which are not necessarily a specific appraisal of the CDA regime and how they have enhanced relations between mining companies and host communities in Nigeria. Yet, such an exercise is essential to determine the successes and gaps in CDA implementation as well as make recommendations that will strength the gains of the policy and practice.

3.0. Methodology

This study relied on primary and secondary sources for qualitative and quantitative data collection. Although designed to cover the entire Nigeria, the research identified six states – one from each of the six geopolitical zones – for fieldwork and deeper focus. While this demonstrated convenience because all Nigeria’s 36 states and Abuja are endowed with diverse minerals in commercial viability, it also fulfilled the requirement for balance representation. Thus, the selected states were Ebonyi in South-East, Edo in South-South, Ekiti in South-West, Kogi in North Central, Taraba in North-East and Kebbi in North-West. The logistics of collaboration with local partners (organisations) and security played a greater role in the selection of the states. Table 3.1 shows the community of focus in each of the states selected and the dominant minerals mined in the place.

Table 3.1: Pilot Communities of the Study and the Dominant Minerals

S/N	Geopolitical Zone	State	Research Community (Local Government)	Dominant Mineral(s)
1.	South-East	Ebonyi	Oshiri (Onicha LGA)	Granite
			Okposi (Ohaozara LGA)	Granite
2.	South-South	Edo	Ikpeshi (Akoko-Edo LGA)	Calcite, Dolomite, Limestone & Granite
3.	South-West	Ekiti	Afao-Ekiti (Irepodun/Ifelodun LGA)	Granite
			Iyin-Ekiti (Irepodun/Ifelodun LGA)	Granite
4.	North-Central	Kogi	Obajana (Lokoja LGA)	Limestone & Granite

5.	North-East	Taraba	Serti (Gashaka LGA)	Lithium, Gold, Lapidolite & Quartz
			Jamtari (Gashaka LGA)	
6.	North-West	Kebbi	Kamtu (Fakai LGA)	Gold
			Daranna (Bagudo LGA)	Manganese

Primary data were sourced, using a combination of stratified, snowball and purposive sampling techniques for questionnaire administration, key informant interviews (KIIs) and focus group discussions (FGDs) from relevant stakeholders across governments, civil society organizations, mining companies and mining host communities. Across government, representatives of the Ministry of Mines and Steel Development (MMSD) and other executive arms of subnational government (state and local) were interfaced for participation in KIIs and FGDs. The research team also held KIIs and FGDs with representatives of traditional institutions (rulers, chiefs and palace staff), members of staff of mining companies and community-based organizations, while transect walks were undertaken in mining communities visited to assess mine sites and CDA projects. Some of the experiences were captured in pictures. Figures 3.1 and 3.2 show data collection session at a townhall in Iyin-Ekiti and Afao-Ekiti respectively, while Figure 3.3 depicts similar sessions in Serti and Jamtari in communities in Gashaka Local Government Area, Taraba State.

Figure 3.1: Data Collection Sessions in Iyin-Ekiti, Ekiti State



Townhall session in Iyin-Ekiti



After-interview picture with the Oluyin of Iyin-Ekiti (2nd from left) and the Chairman, Irapodun/Ifelodun Local Government Area

Figure 3.2: Data Collection Sessions in Afao-Ekiti, Ekiti State



A townhall session in Afao-Ekiti



FGD session in Afao-Ekiti

Figure 3.3: Data Collection Session in Serti and Jamtari Communities, Taraba State



FGD session with men in Serti



FGD session with women in Serti

<https://youtu.be/ercQGkzn2E4>

<https://youtu.be/3uxlKtIQXWl>

Also, Figure 3.4 features data collection sessions with residents of Oworoland comprising five communities of Apata, Iwaa, Obajana, Oyo and Shokoshoko, while Figure 3.5 covers data collection sessions in Ikpeshe community in Edo State.

Figure 3.4: Data Collection Sessions on Oworo, Kogi State

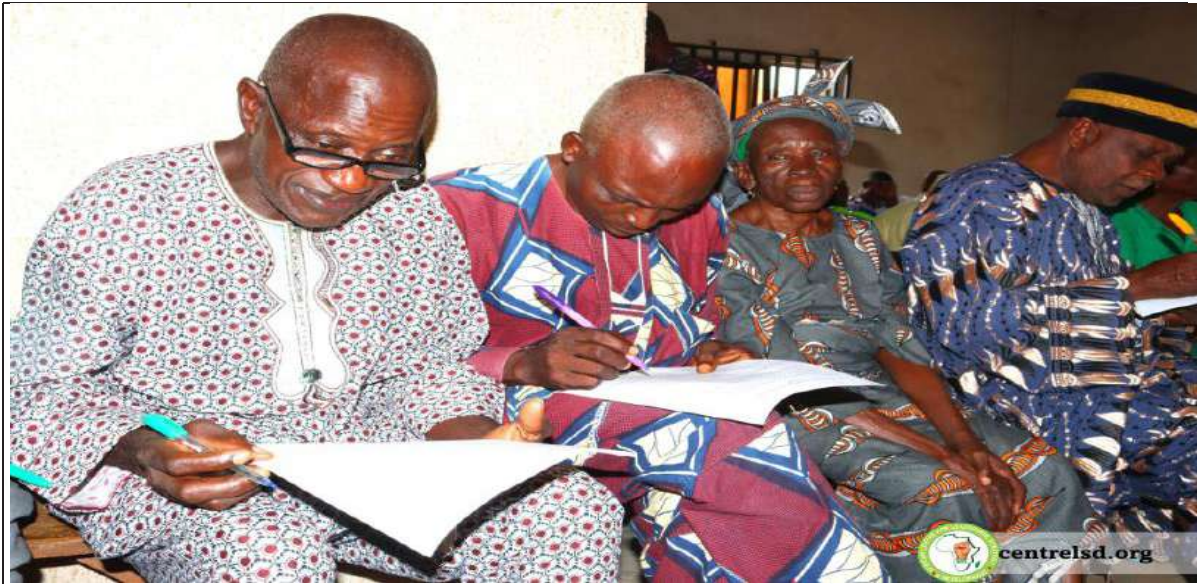


Townhall session with Oworo community held in Lokoja



Figure 3.5: Data Collection Session in Ikpeshi, Edo State.





Townhall and questionnaire administration session in Ikpeshi
https://youtu.be/ECta_OLWth4

The data collection sessions in Oshiri and Okposi communities in Onicha and Ohaozara local government areas respectively are captured in Figures 3.6, while sessions with staff and managements of mining companies, subnational government representatives and development practitioners are covered in Figure 3.7.

Figure 3.6: Data Collection Sessions in Oshiri and Okposi Communities in Ebonyi State.



Townhall and questionnaire administration session in Oshiri



FGD with Eze-in-Council in Okposi.

Figure 3.7: Data Collection Sessions with Staff and Managements of Mining Companies, Ministry of Mines and Steel Development and Mining Technical Experts/Advisors



Interview session with the Deputy Governor of Kebbi State, Colonel Samaila Yombe (rtd)



Interview session with Managing Director of IBD Ipex Quarry, Ibrahim Elegbede



Interview session with the Manager of Sino Minmetals, Mr. Owoyemi Akinola.



Questionnaire administration and discussion session with staff of IBD Impex quarry in Afao-Ekiti



After-meeting picture with Mining Environmental Compliance Department in the Ministry of Mines and Steel Development, Dr. (Mrs) Vivian C.I. Okono (4th from left).



Interview session with the Technical Adviser, Mining Strategy and Governance, in the Ministry of Mines and Steel Development, Lumun Amanda Feese.



Tundu Taiwo, the CEO of Impresal Mining and Secretary, Mining Law Committee of the Nigeria Bar Association (NBA).

However, the research team could not visit mine sites in Ebonyi and Kogi states due to logistics and security challenges.

Secondary materials were sourced from an avalanche of publications on mining. From a desk review approach, the publications enabled the researcher to define the global and continental contexts of the analysis of CDA practices in Nigeria. Put differently, the review of secondary data provided the opportunity to assess global and continental trends in CDA development and implementation with a view to relating observed trends to the context and reality, legal and regulatory frameworks, and practice in Nigeria.

The endeavours were not without challenges, anticipated and non-anticipated. Preparatory to the commencement of the study, plans were afoot to mitigate the anticipated challenges, namely:

- Insecurity and community access which were mitigated by leveraging partnerships with local networks of individuals and organizations such as state branches of *Miners Association of Nigeria* and *Women in Mining in Nigeria*;
- Possibility of misconstrued intention of research for 2023 elections which was mitigated by proactive disclosure of the objective of work and

dissociation from partisan politics at every given opportunity. The team also pledged respect for research ethics, including freedom for voluntary withdrawal from primary data collection process at any time;

- Inaccessibility of relevant documents (including some CDAs) anticipated to be mitigated with attached letter of introduction of the purpose of the study and solicitation of support from would-be respondents;
- Cultural barriers in terms of access to women which was intended to be mitigated by reliance on third party contacts from the selected states/communities; and
- Conflictual information from respondents anticipated to be mitigated through triangulation of data collected from other sources.

Top of the unanticipated challenges was an early realization of the inability to administer 100 copies of the questionnaire prepared for data collection per selected pilot states, which left the research team to reduce the number by half (50 copies) after due consultations.

The second challenge was the difficulty with language barrier which resulted in the reliance on field assistants. However, the challenge of access to women population due to cultural barriers could not be mitigated in Kebbi State, despite the reliance on a field assistant and the arrangement to assign a female member in the research team to help with the conduct of KIIs and questionnaire administration.

Perhaps, a much bigger challenge was inadequacy of allocated travel days for fieldwork in some states, leading to ingenious adjustment in strategy and approach to data collection. In Kebbi and Taraba states, days allocated were not only grossly inadequate due to distance between rural communities, there were also absence of hotels to lay over, thus informing decision of the research team to pre-arrange for all the categories of persons needed for the data collection in one venue from where they were engaged differently.

The data collected using the quantitative instrument (survey) were coded and interpreted in simple percentage format, while information from other sources complemented the analyses drawn. Overall and more broadly, information gathered from both primary and secondary sources were analyzed and presented in both prose and charts, using multiple triangulation techniques to resolve conflicting position(s). Professionalism and research ethics guided the entire process without resort to personal biases (subjectivity). This has enhanced the validity and reliability of this output.

4. 0: Presentation and Interpretation of Data

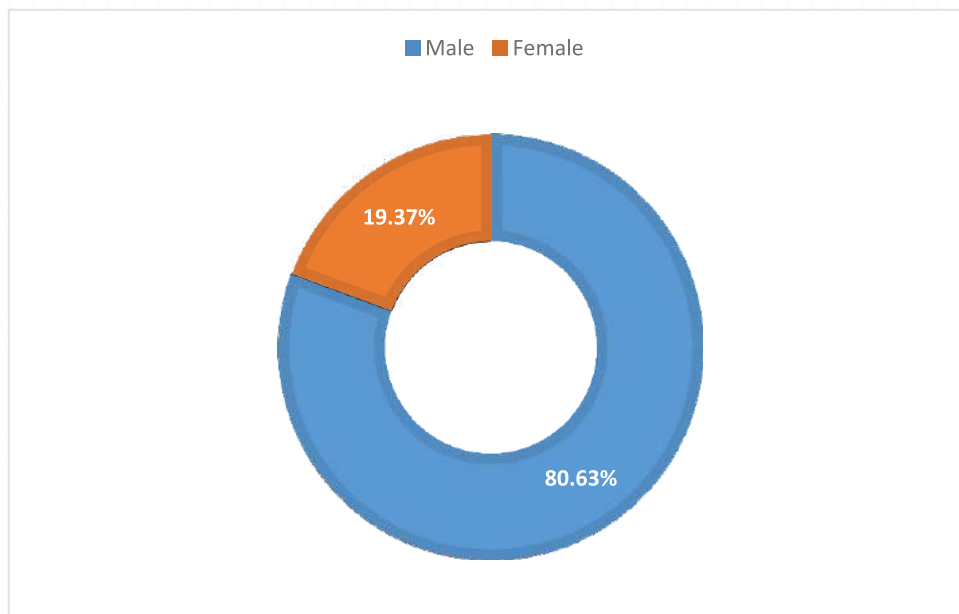
Deriving from the circumstances observed in the field which resulted in a reduction in the earlier proposed copies of the questionnaire to be administered to respondents, the research team deployed 300 copies – i.e. 50 per each of the six selected states across the six geo-political zones. The details of the data collected were compiled, coded and presented in charts accommodative of the responses of each selected states/geopolitical zones. The results are discussed in numerical sequence across three broad sub-teams for which the data were collected, namely:

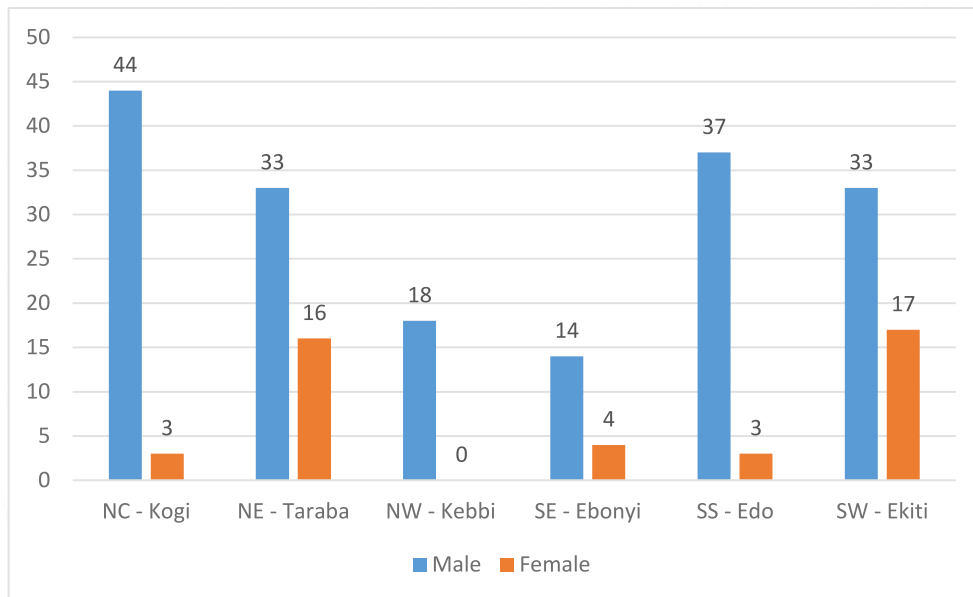
- *Demography of respondents,*
- *Residency status, Length of Stay and Awareness of CDAs, and*
- *Depth of knowledge and level of involvement with CDA-making, implementation, and impact in communities.*

4.1: Part A – Demographic Data of Respondents

From the 300 copies of the questionnaire deployed, 222 (representing 74%) were successfully administered to respondents. The breakdown shows that 179 respondents (80.63%) were males, while the remaining 43 (19.37%) were of female gender. See Figure 4.1.

Figure 4.1 Distribution of Respondents by Gender (Cumulative and State)





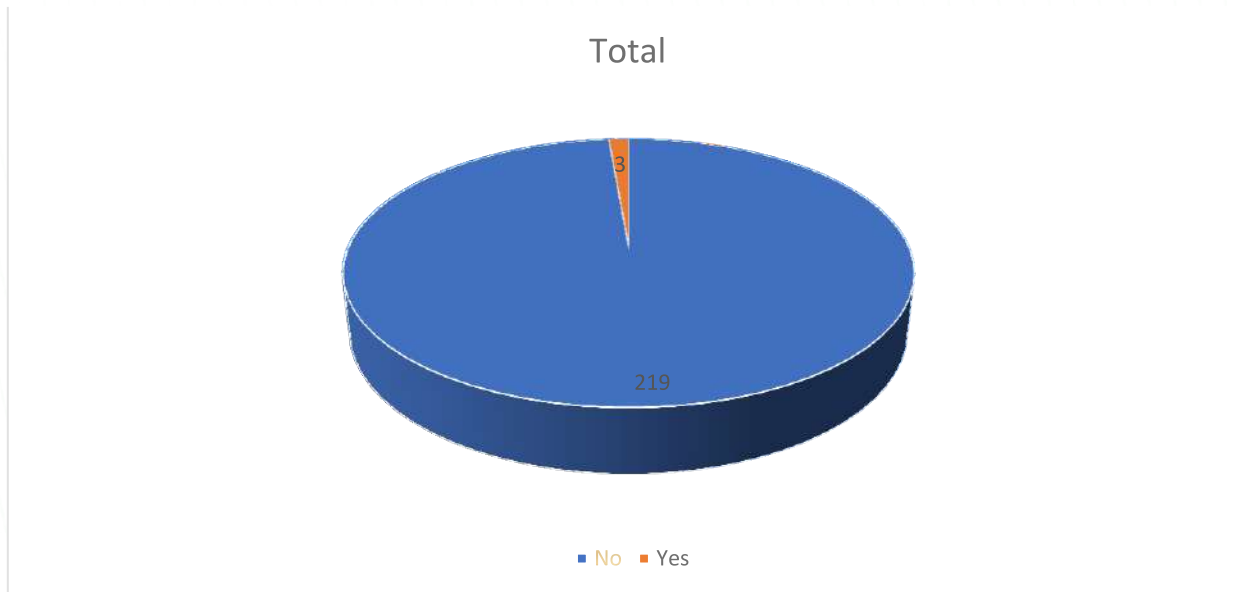
The copies of the questionnaire returned is relatively low when compared to number of community people represented at the chosen venues for primary data collection. Despite employing the service of local hands to explain the questionnaire and providing pens for writing, many targeted respondents choose only to participate in the KIIs and FGDs.

As shown in the chart (Figure 4.1), only Ekiti State (South West) recorded 100% respondents (43 males and 17 females); representing 22.52% of the 222 respondents that completed and returned the questionnaire. This was followed by Kogi State (North Central) with 47 respondents (44 males and 3 females) respondents and Taraba State (North East) with 46 respondents (33 males and 16 females representing 21.17% and 20.72% respectively. Ebonyi State (South East) and Kebbi State (North West) came from behind with 18 (8.11%) respondents each. While all 18 respondents in Kebbi State were males, Ebony State had four females and 10 male respondents.

A question sought to elicit the physical disability status of the respondents. There are different categories of disability such as Albinism, Autism, Blindness, Cognitive/Leaning, Deafness, Down Syndrome, Physical impediment, Spinal Cord Injury and a host of others. This study only placed emphasis on visible and easily discernible features of disability, and did not probe any further into categories of disability to avoid stirring discomforts and sensibilities of respondents. To this extent, only three of the 222 respondents representing 1.35% had physical disability issues, and they were distributed between one in

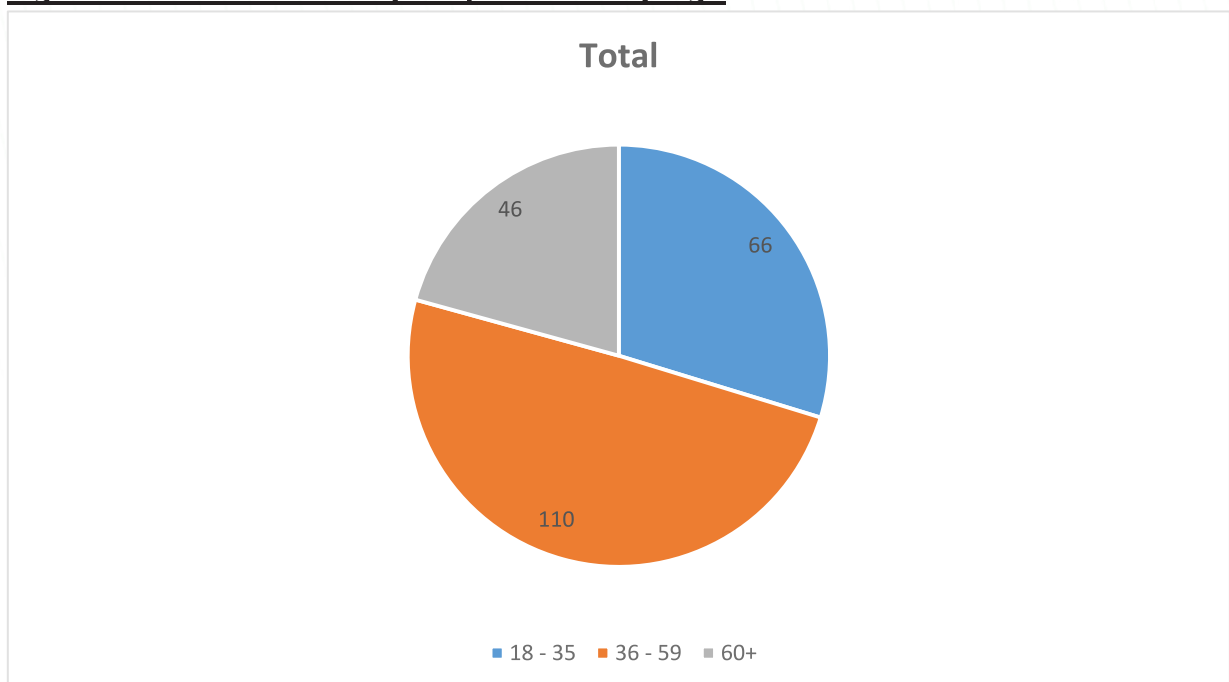
Daranna community, Kebbi State (North West) and two in Ikpeshi community, Edo State (South South). Figure 4.2 presents this in a chart.

Figure 4.2: Distribution of Respondents by Disability



The age distribution of respondents was categorized into three, namely: 18-35 (youth), 36-59 as most productive age bracket, and 60 years and above (60+) as the category of senior citizens. The outcome in Figure 4.3 shows that 110 respondents of ages 36-59 (49.55%) came highest with Taraba and Edo states leading with 25 (11.26%) and 23 (10.36%) respondents respectively.

Figure 4.3: Distribution of Respondents by Age



Young people’s age bracket (18-35 years) came next with 66 (29.72%) respondents, while the senior citizen respondents (60+) were 46 (20.72%). Kogi State recorded the highest number of youth population with 28 (12.61%) respondents, while Kebbi State did not record any youth representation in the bracket. Edo State tops the senior citizens’ bracket with 19 (8.56%), while Taraba State came from the bottom with 5 respondents (2.25%).

The distribution of respondents by residential status in communities studied revealed (see Figure 4.4) that 202 (90.99%) are resident indigenes. Others were 19 (8.56%) company workers and one (0.45%) visitor. Ekiti, Kogi and Taraba states had the highest number of resident respondents with 44 (19.82%), while Kebbi State had the least score with 13 (5.86%) respondents.

Figure 4.4: Distribution of Respondents by Residential Status in Community

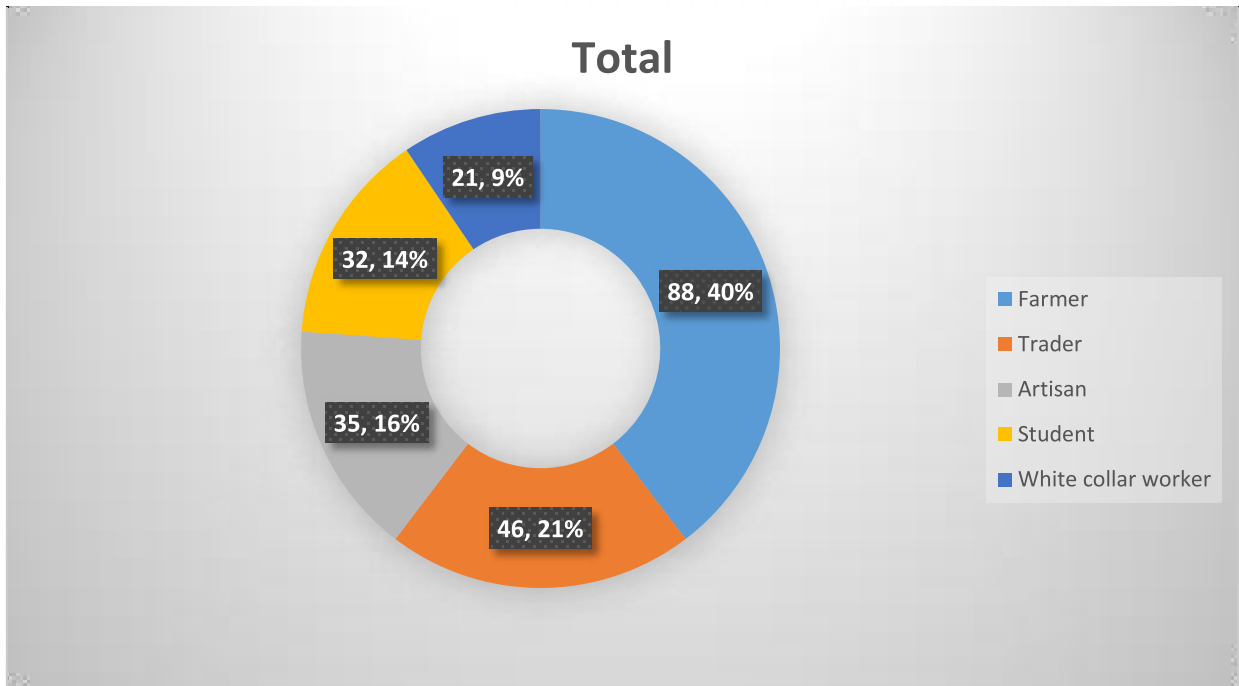


The company workers in Afao-Ekiti (South West) actively participated in the town hall discussion with the community people. Similar to the experience in Kamtu, Fakai Local Government Area of Kebbi State, company workers in Afao-Ekiti participated in a separate FGD on the operational programmes and activities of their company in the community.

The occupational distribution of respondents from the data collected revealed that farmers formed the single pool of the different occupations. This was not far-fetched, given the very rural nature of most mining communities in Nigeria. The responses to the questionnaire revealed that 88 (39.64%) respondents

were farmers with Taraba and Kogi states presenting the highest and the lowest with 22 (9.91%) and 9 (4.05%) respondents.

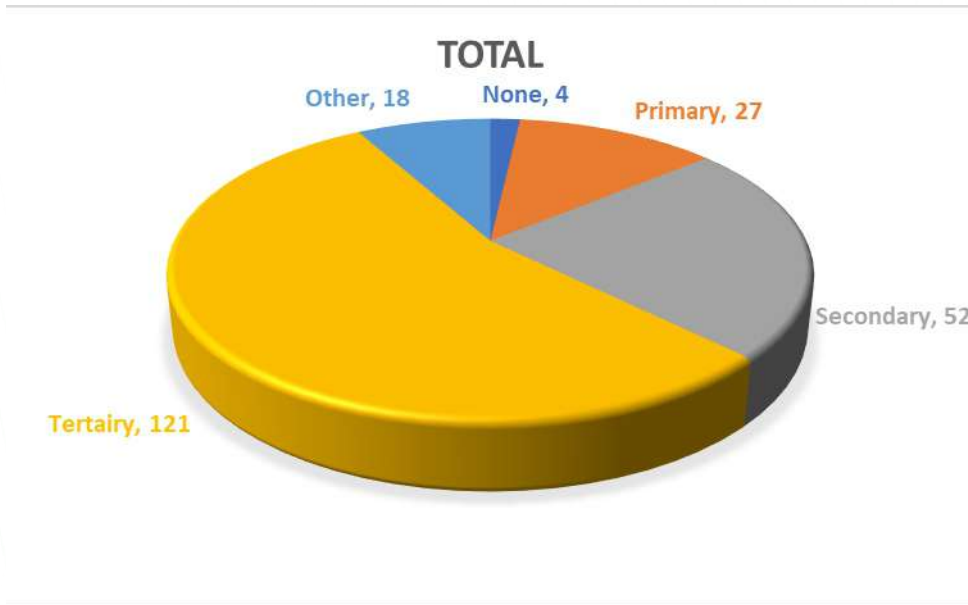
Figure 4:5: Distribution of Respondents by Occupation



Traders, Artisans, Students and White-collar workers come next in that order with 46 (20.72%), 35 (15.77%), 32 (14.41%) and 21 (9.46%) respondents respectively. Notwithstanding that, many respondents confessed to the fact that they complemented their vocation with farming, thus making them to rely on dual or multiple means of survival.

The statistics on the level of education attainment of respondents in Figure 4.6 showed that 121 respondents representing 54.59% had tertiary education. Respondents with secondary school level education followed next with 52 (23.42%), while 27 (12.16%) others had primary education.

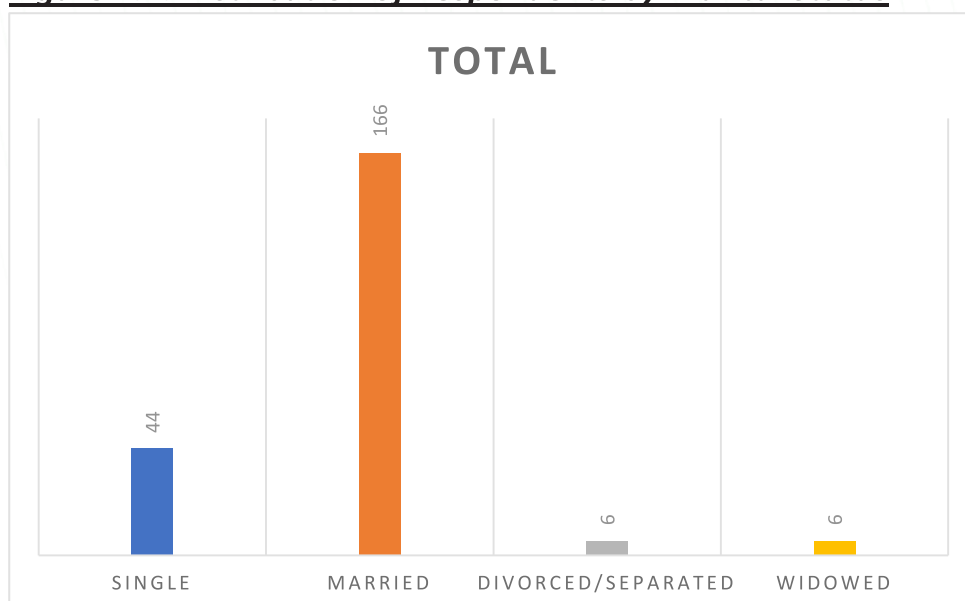
Figure 4.6: Distribution of Respondents by Level of Education attainment



Only Edo and Ekiti states had records of one and three respondents (respectively) without any form of education. While one respondent had some form of informal education in Ekiti State, 17 of the entire respondents (i.e. one from Taraba State and 16 from Kebbi State) attributed the source of their alternative education to Islamic classes.

Marital status wise, 166 respondents representing 74.77% of the 222 people to whom the questionnaire was administered were married, while 44 others were single. The divorced/separated and the widowed were 6 (2.70%) apiece.

Figure 4.7: Distribution of Respondents by Marital Status



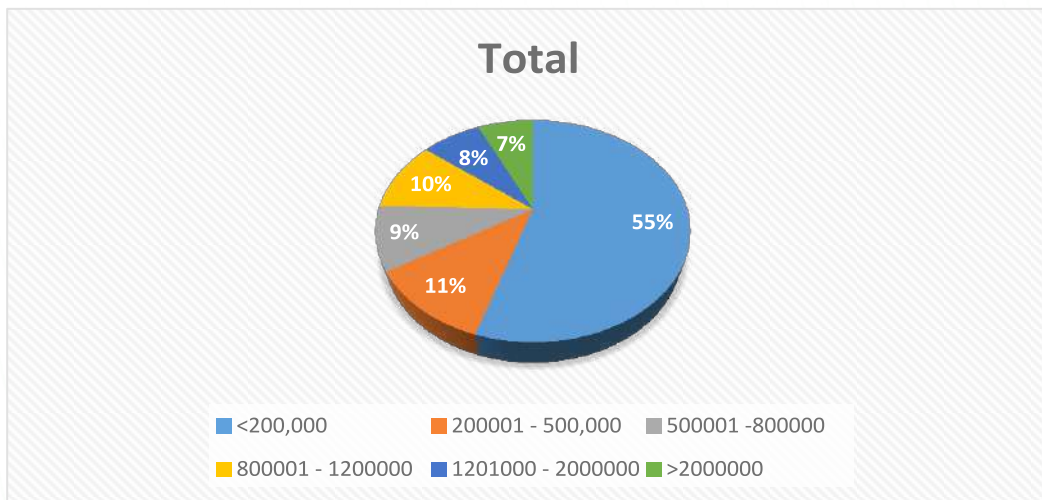
As would be observed in Figure 4.7, Ekiti State had the highest number of states with married and single respondents divided into 40 (18.02%) and 6 (2.72%) respectively. All respondents in Ebonyi and Kebbi states (18 apiece) are married.

In terms of income, only 204 out of the 222 respondents to the questionnaire responded to the question about their annual earnings; the remaining 18 left the options unattended to. This may not be a surprise because questions about income are ordinarily not what many respondents, especially men, are enthusiastic to answer in surveys for different reasons. Like health, religion and sexual orientation, questions about income are so sensitive and personal that many respondents consider them intrusive. In fact, many respondents skip them. According to a source, where they are marked “mandatory” or “required”, questions about income could make some respondents exit surveys, altogether.¹⁵ In this particular context (see Figure 4.8), 112 respondents (50.45%) said they earned less than N200,000 as annual income, while 23 respondents earned above N200,000 to N500,000. The next level of over N500,000 to N800,000 annual income earning attracted 19 respondents, while 21 others said they earned between N800,001 to N1,200,000, and thereafter N2,000,001 and above (N2 million+). These figures showed that far less than half of the respondents (and people in mining communities visited) have actually scaled the poverty line of \$2 per day.¹⁶ It points to level of poverty in the midst of socio-economic benefits that mining holds in communities.

¹⁵ Survey Monkey How to Ask Income Survey Questions. Available on: <https://www.surveymonkey.com/mp/how-to-ask-income-survey-questions/>

¹⁶ Under the current unified exchange rate of US\$1/N755.

Figure 4.8: Distribution of Respondents by Income



Taraba State topped the list of the 19 respondents that skipped the question on income. The state recorded nine abstainers representing 4.50% of the respondents. Ebonyi and Kogi states had three respondents who abstained, while Ekiti and Edo states recorded one and two abstentions respectively.

PART B: Residency Status, Length of Stay and Knowledge of CDA in Community

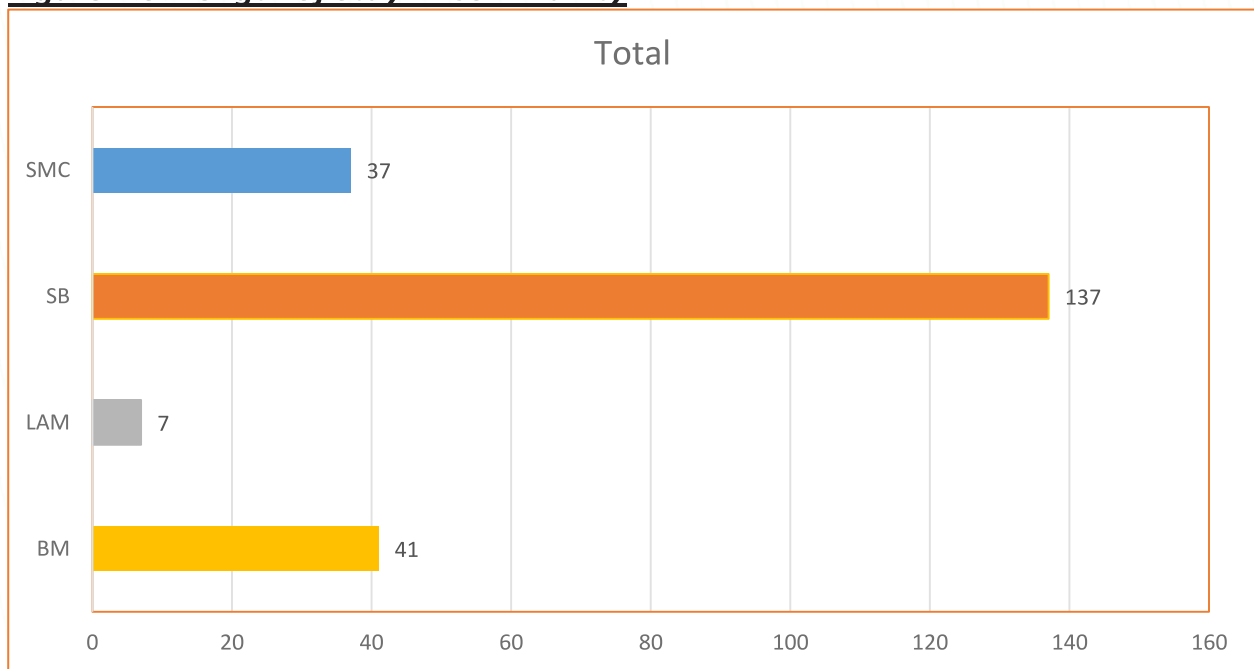
This section of the survey sought to establish the correlation of the respondents’ length of stay in their communities, with responses ranging from “Since Birth” (SB), “Before Mining” (BM), “Since Mining Company” (SMC) started operating in their communities and “Long After Mining” company (LAM) started operations. It also sought to established respondents’ knowledge/awareness of the existence of CDAs, and where there is limited knowledge, what could be responsible for that.

As would be discovered, 172 respondents representing 77.48% acknowledged that they have stayed in their mining communities – both as indigenes and settlers – prior to when mining operations was launched by companies. Ekiti, Kogi and Edo states emerged first, second and third with 34 (15.32%), 32 (14.41%) and 27 (12.16%) respondents in that order respectively, while Ebonyi led from behind with 10 (4.50%) respondents.

Apart from Ikpeshi (Edo State) and Oworoland (Kogi State) where mining started years ahead of the Nigerian Minerals and Mining Act 2007 which gave effect to CDA practice (i.e. 1988 and 2008 respectively), mining activities is relatively new in the communities visited. In fact, most of the communities are

having their first time experience in CDA negotiation and implementation. Across the six states visited, only 37 (16.67%) out of the 222 respondents put their length of stay in their communities “since mining” companies started operations, while 7 others (3.15%) claimed they came into the community “long after mining” (LAM) operations started. What is easily discernible from this, especially from personal observation is that apart from Edo State where there are up to 46 companies performing different mining operations, mining did not induce much migration. Even where migration was induced in the case of Kebbi and Taraba states where mining communities are spaced by distance, many of such migrants elected to practice temporary camping around their work location and engage in frequent returns to their permanent homes or nearby settlement.

Figure 4.9: Length of Stay in Community

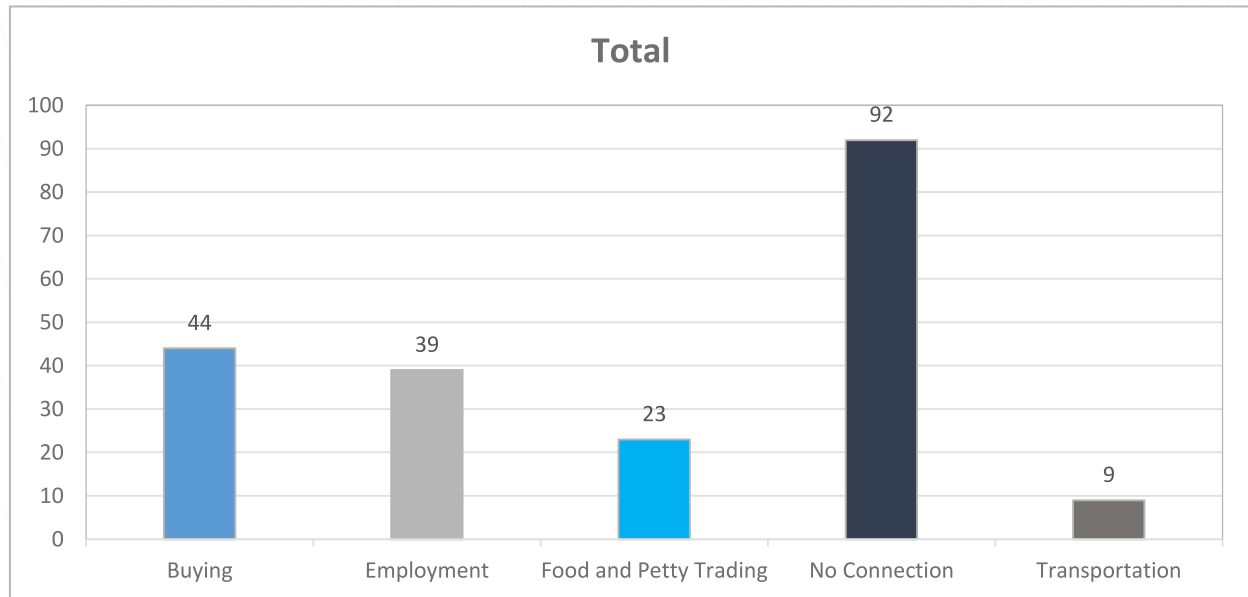


Although gold mining started in Kebbi State in 1924, mining operations in Kamtu by Yomed Nigeria Ltd started in 2017. Manganese mining by Sino Minmetals Co. Ltd in Daranna, Bagudo Local Government Area in the state is also very recent. In Serti and Jamtari communities in Taraba State where Lithium, Gold, Tantalite and Quartz are the dominant minerals mined, 2018 is the oldest date of mining by many of the companies operating there. Prominent among the companies are Nasara Concept Ltd, Blue Stone Mining Exploration, Doro Services Ltd, Sule Bam-Bam, Auwal Investment, James & James, Bepem, Leadway, while Women in Mining (Taraba State chapter) are

just starting out as a cooperative body. Best Stone Solution Ltd and IBD Impex Ltd share 2016 as their quarry operations date. The Goodnews Multipurpose Society Ltd, and Franz Abbason in Oshiri in Ebonyi State started out in 2019, while Dofmetals shares a recent history of operations that dates back to 2021. Overall, beyond having a relatively older history of mining among the communities piloted in this study, Ikpeshi in Edo State also plays host to the highest number of companies put at 46. The companies are of different sizes and bounds, all mining different minerals, including Quartz, Calcite, Dolomite, Lepidolite, Limestone and Granite.

The survey attempted to establish the connection that respondents had with mining in the community. Of the 222 respondents sampled, only 40 representing 18.02% said that they are connected by way of mining-related employment. Table 4.10 showed that the population of respondents that are into mineral trading are 41 (18.47%), while those into transportation as well as food vending/petty trading are nine and 23 respectively.

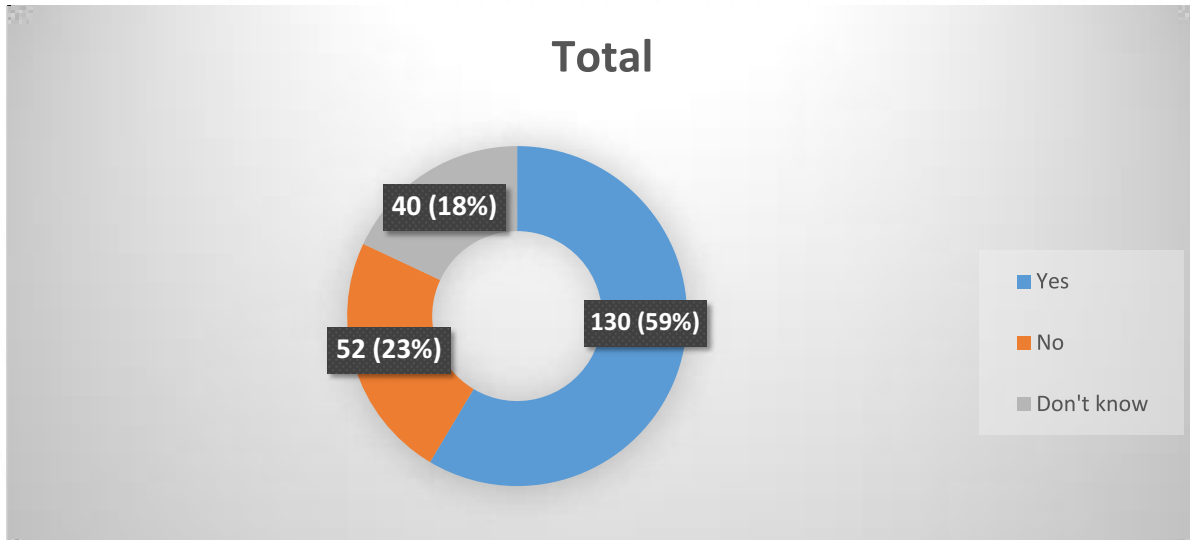
Figure 4.10: Respondents' Connection with Mining in Community



In a response to a question asked concerning respondents' awareness about the existence of CDAs between mining companies and their community, 57.66% (i.e. 128) of the respondents are aware that there are CDAs between companies and their communities. However, 51 (22.97%) respondents are not aware, while 43 (19.37%) ticked the option of "Don't know." Ekiti State tops the list of states that secured 44 "Yes" out of the 130 (59%) respondents that

were so counted, while Edo led from the bottom (i.e. “No”) with six respondents (see Table 4:11).

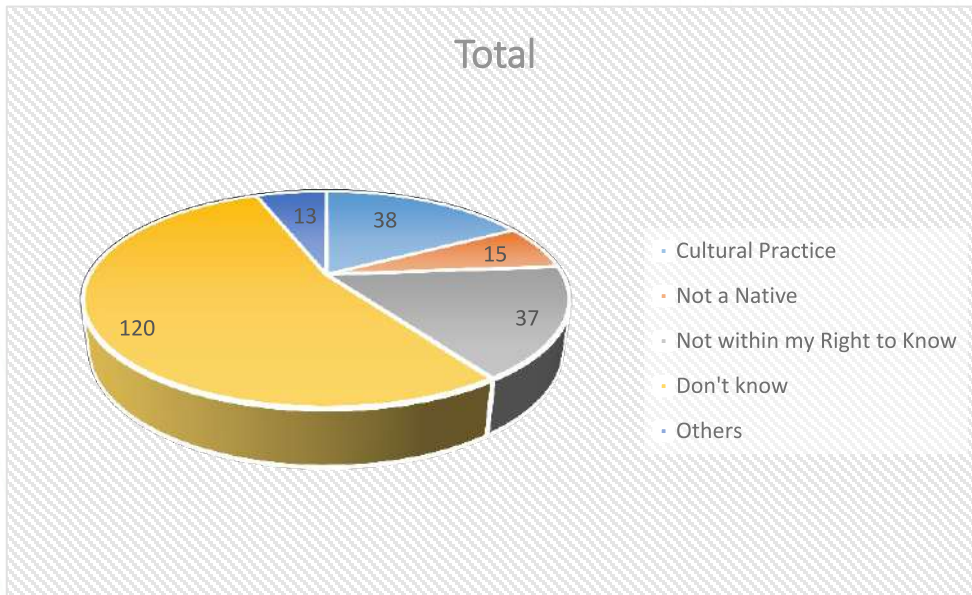
Figure 4.11: Knowledge/Awareness about Existence of CDA in Community



Virtually all the other states showing less than five respondents each checked “Don’t know”, except Kebbi State which recorded 13 respondents for the latter.

Given that CDAs are supposed to be public knowledge, since they are provided for in the Nigerian Minerals and Mining Act 2007 and the Nigerian Minerals and Mining Regulations 2011, the survey envisaged and desired to elicit what could be responsible for poor public knowledge/awareness about CDAs in mining communities. On this, 31 respondents being equivalent of 13.96% attributed cultural practices bothering on respondents not being traditional title holders, or being a woman or a combination of both characteristics in one – i.e. non-title holding with being a woman as reasons for their lack of awareness of CDAs. Another 17 (7.66%) and 53 (23.87%) respondents share reasons of not being indigenes (a native) nor within their right to know respectively.

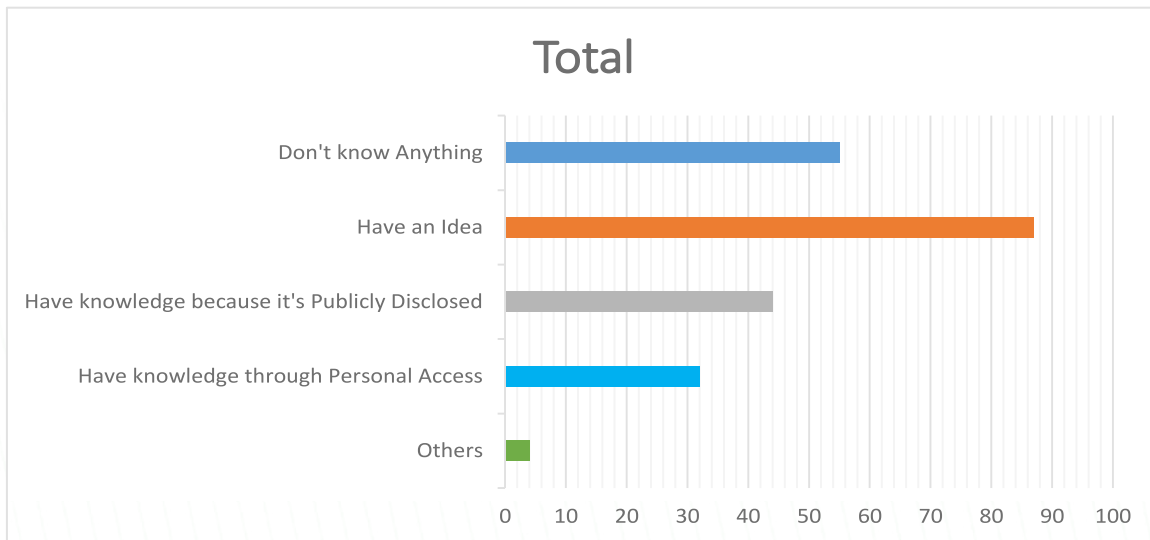
Figure 4.12: Possible Reason for Ignorance of Existence of CDA in Community



Again, 103 (46.40%) respondents ticked yet another “Don’t know”, while 18 others (equivalent of 8.11%) adduced other possible reasons. Edo and Ekiti states came top with respondents that compounded the situation with yet another “Don’t know” with 13.51% (30) and 12.61% (28) respectively. Kogi State also topped the list of pilot states where respondents attributed the reason of “not within my right to know” about the existence of CDA in the community with 17 (7.66%) while Kebbi State recorded zero response.

An inquiry about respondents’ knowledge/source about the contents of mining CDAs signed by companies with communities across the six states visited for the study revealed that only 76 respondents representing 34.23% have some full knowledge about the CDAs in their communities. This figure is a summation of two categories of respondents, namely: those who reckoned they had “personal access” to the CDAs and other who claimed they knew through “public disclosure” to the community. Another 88 respondents (39.64%) said they only have “an idea” (i.e. not in any comprehensive form) of the content of the CDAs in their communities, while 53 others (23.87%) said they “Don’t know anything” about the content of the CDAs in the study communities.

Figure 4.13: Knowledge of Community Representation in CDA project Negotiation and Execution Process



As negligible as the score stands, Ekiti State obviously had the highest number of respondents (representing 7.66%) who said that mining CDAs are disclosed for community knowledge. This is not any surprise, given the observed high-level organizational structure and inclusion demonstrated by Afao-Ekiti and Iyin-Ekiti communities. Iyin-Ekiti CDA is overseen by the Oluyin-in-Council (the traditional ruler and his Council of Chiefs), while Afao-Ekiti CDA is overseen by Afao-Ekiti Development Council (ODA). Both bodies have CDA Committees that oversee project negotiation, planning, implementation and monitoring. What is particularly unique about the structures in both communities is the composition of the committees which give opportunity for intersectional representations, namely: Traditional ruler-in-Council, Elders, Women and Youth.

Also, deriving from its well-organised community structure anchored on representation of all six-heritage kindreds¹⁷ which are further expanded to accommodate all 18 families of the kindreds, Ikpeshe community in Edo State came next to Ekiti State with 11 respondents representing 4.95%, while Kogi and Kebbi states came from behind with records of two and three respondents respectively. All three respondents from Kebbi State who said they know of CDAs because they are publicly disclosed are staff of the mining companies – i.e. two from Kamtu-based Yomed Nigeria Ltd and one from Daranna-based Sino Minmetals Co. Ltd.

¹⁷ The six kindreds in Ikpeshe are Uyarenya, Emani, Igwu, Ucha, Igbudura, and Emimesama.

Edo and Ekiti from the South South and South West regions respectively emerged top with 22 respondents each who claimed they have some ideas of the content of the CDAs in their communities, while Kogi and Taraba states in North Central and North East were followed closely with 19 respondents each. Overall, while there are claims of knowledge/awareness of CDAs in mining communities, a drill down on what is allegedly known – except for Afao-Ekiti and Iyin-Ekiti – are largely shallow and bereft of details. This is also further evidenced in the revelations in the next sub-section.

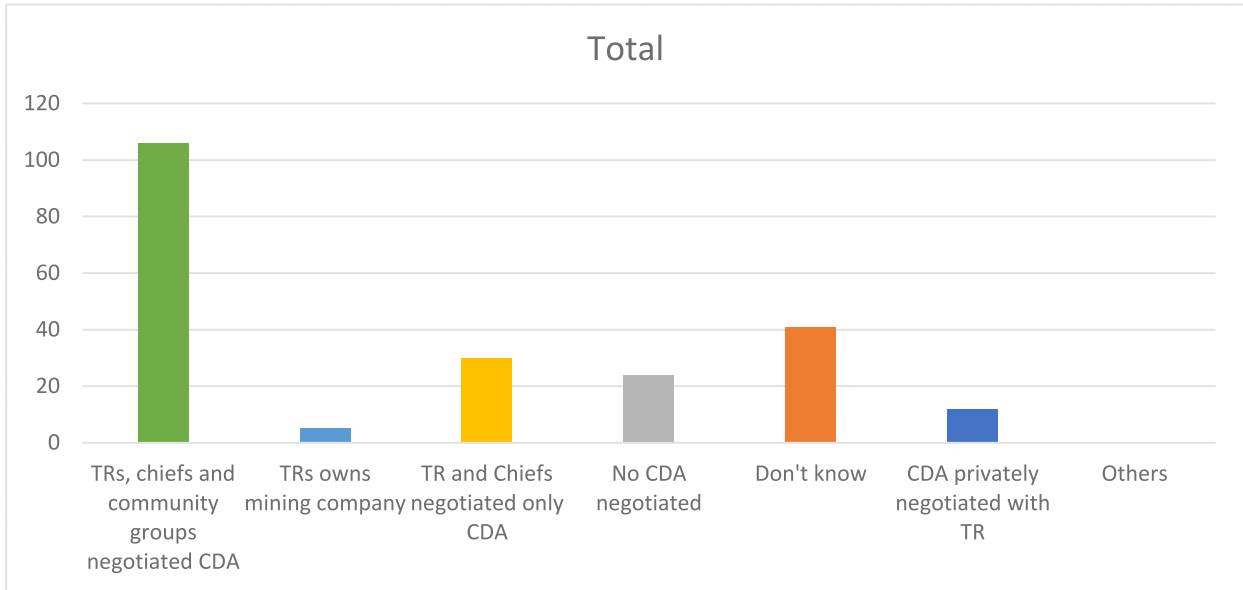
PART C: CDA-Making: Process, Execution and Impact in the Community

This section of data collection in the survey elicited responses on the processes of CDA-making, approaches to CDA project implementation, and the impact of such projects on target communities.

Figure 4:14 presents responses to inquiry about how mining CDA projects are identified, negotiated and sealed by companies and communities. Less than half of the 222 respondents depicting 45.95% of the sampled population (102 respondents) are of the view that the processes of CDA negotiations are inclusive with the participation of traditional rulers, chiefs and other community groups.

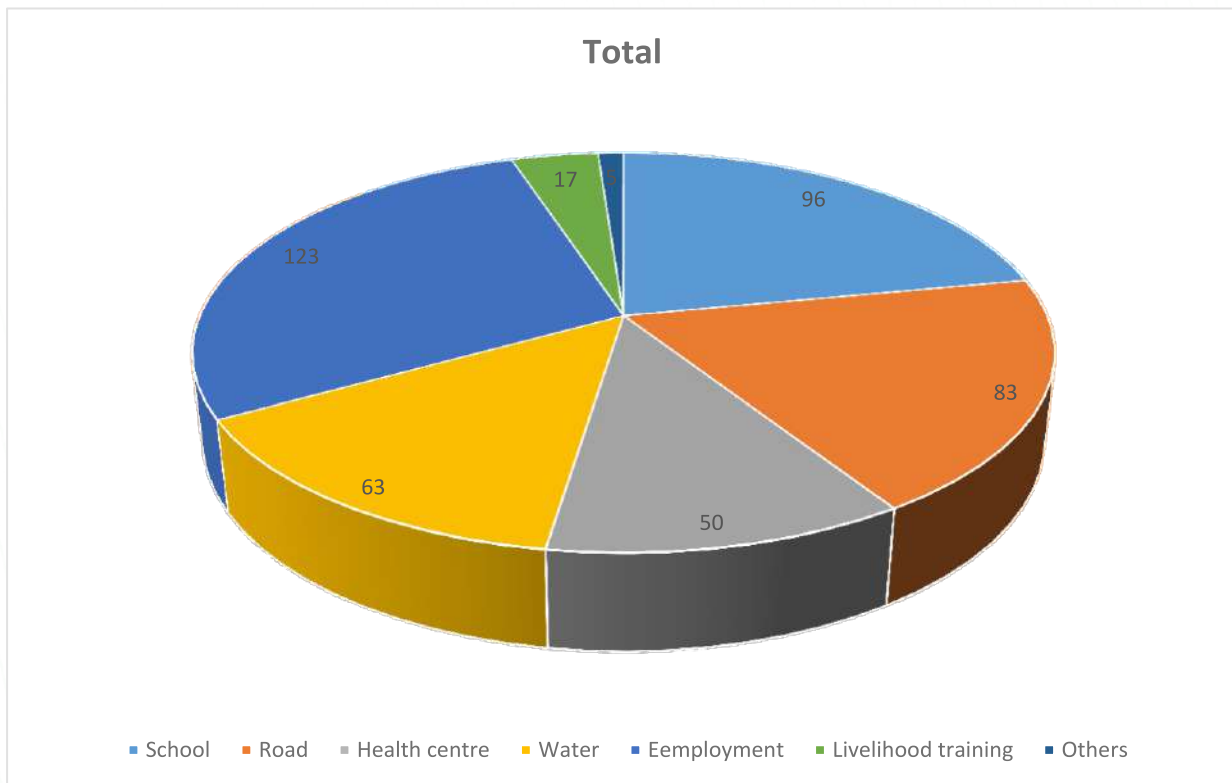
Only 29 respondents (13.06%) said they “don’t know”, while 24 (10.81%) respondents said there are “no CDAs negotiated.” Traditional rulers and chiefs were tipped by 50 respondents as the negotiators of CDAs on behalf of the communities, while 12 respondents shared the view that CDAs were “privately negotiated with traditional rulers.” A total of 53 respondents (23.87%) are split between the options that CDAs are neither negotiated nor “don’t know” about their negotiation. The other five respondents said the traditional rulers owned the mining companies. A complementary remark to this in a KII is that being the custodians of the communities, traditional rulers need not negotiate CDAs with anybody.

Figure 4.14: Negotiation Process of Community Development Agreement



In respect of project identification across different sectors covered by CDA projects in mining communities sampled, the top three selected by the respondents are employment, education and infrastructure. Employment was ticked by 123 respondents, while education (schools) and infrastructure (roads) followed as next priorities covered in that order by 96 and 83 respondents. Kogi and Edo topped the list of states where 36 and 30 respondents choose employment respectively. Ekiti State led states where respondents settled for education and infrastructure with 32 and 34 respectively.

Figure 4.15: Top Sectors Covered in CDA Projects in the Community

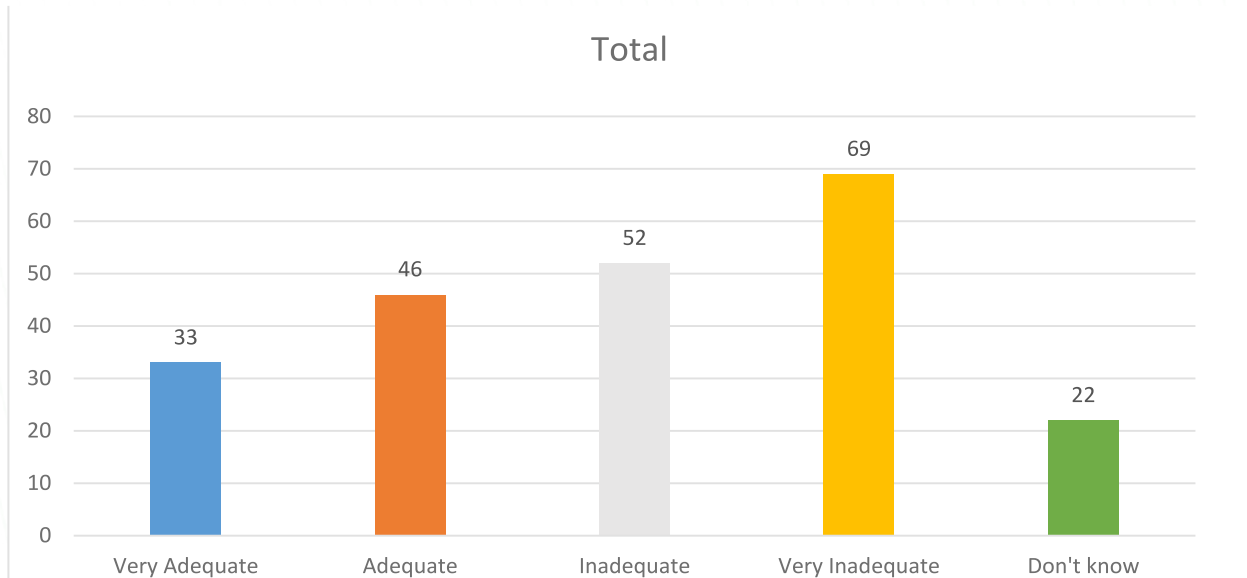


Employment emerging as top of the three priorities areas covered in CDA projects in communities may be interpreted as questioning the veracity of earlier response on occupational status by respondents which was put at 19 (8.56%) mining “company workers” among the 222 persons to whom the questionnaire was administered. Thus, it is either that the response about “employment” being the top sector most prioritized was exaggerated or it was construed to include other economic activities on which mining rubs off on the communities. Participants in the FGDs in Ikpeshi community and KIIIs in Kogi and Taraba states confirmed the latter.

Away from the sectors covered by CDA projects in communities, the extent of adequacy and accommodation of community needs in CDA projects was interrogated to elicit information concerning the level of achievement of the central goal and objectives of CDAs. Besides the observed exclusion of some critical social categories of people in the communities from the CDA project negotiation process, the survey also attempted to measure the level of adequacy or otherwise of the accommodation of community needs in the selected projects. As shown in Figure 4.16, only 33 of the 222 respondents sampled said the CDA projects in their communities are “very adequate”, while 46 others checked “adequate.” A whopping 121 respondents representing

(54.51% of the total respondents) were split between “inadequate” (52) and “very inadequate” (69), while 22 others (9.91%) said they “don’t know.”

Figure 4.16: Level of Adequacy of Community Needs in CDA Projects

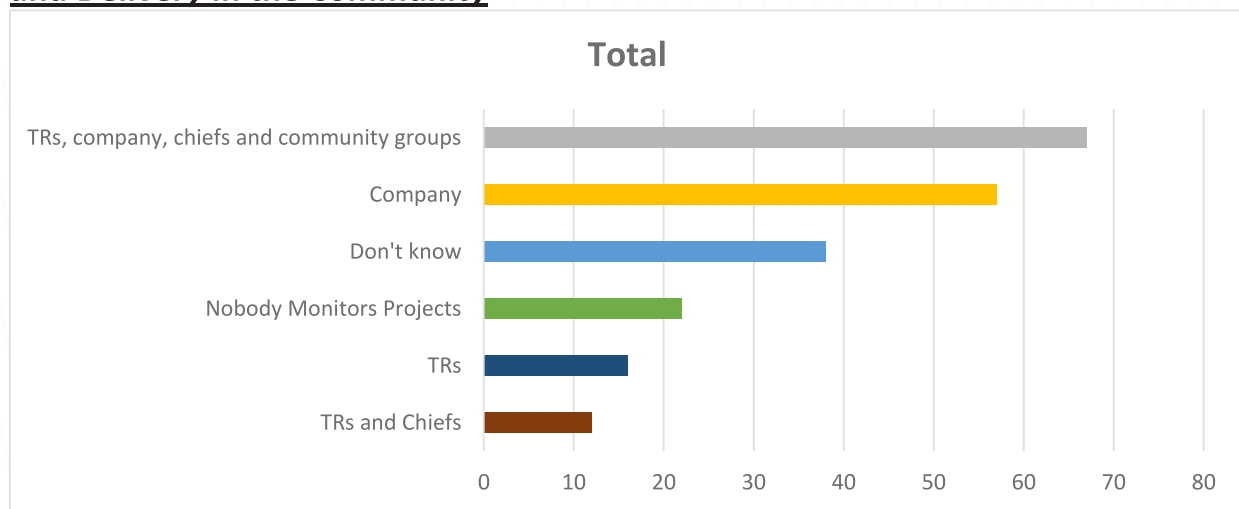


The reason for this is not difficult to appreciate, given the observed degree of intersectional exclusion in many mining communities. Thus, the observed inadequacy of community needs in the CDA projects aptly captures the maxim of “s/he who wears the shoe knows where it pinches.” Where communities are granted the opportunity to discuss their problems and identify their needs, mutual trust, confidence and sense of belonging are built to the point that promotes peaceful relations. The contrary has facilitated company-community and intra-community conflicts. Even where open confrontations are spared, deep grudges have remained. In one of the two communities visited in Kebbi State, an elder volunteered information about how they were cheated to please a mining company via a collusion by the District Head, while in Obajana, the home of Dangote Cement, youth expressed visible anger about how their community have been exploited for pittance in the name of CDA projects.

Beyond meeting the needs of communities, the value in CDA projects are also measured in relation to their overall sustainability opportunities – i.e. serving the communities for the longest possible time. A question in the survey that sought to elicit responses on the responsibility for CDA project monitoring for quality delivery for expected longest time services was put in focus. Across the array of options capturing the different parties in the CDA (see Figure 4.17). 67

respondents, equaling 30.18%, ticked the option of a joint approach comprising the traditional ruler/chiefs/company/community groups. While another 57 (25.68%) laid the responsibility at the feet of the mining companies. 22 respondents said nobody monitors CDA projects quality, which may not be correct based global principles/general knowledge about project management. This is not to undermine the fact that the system may choose to be blind in terms of practice/implementation plan contained in the CDAs themselves.

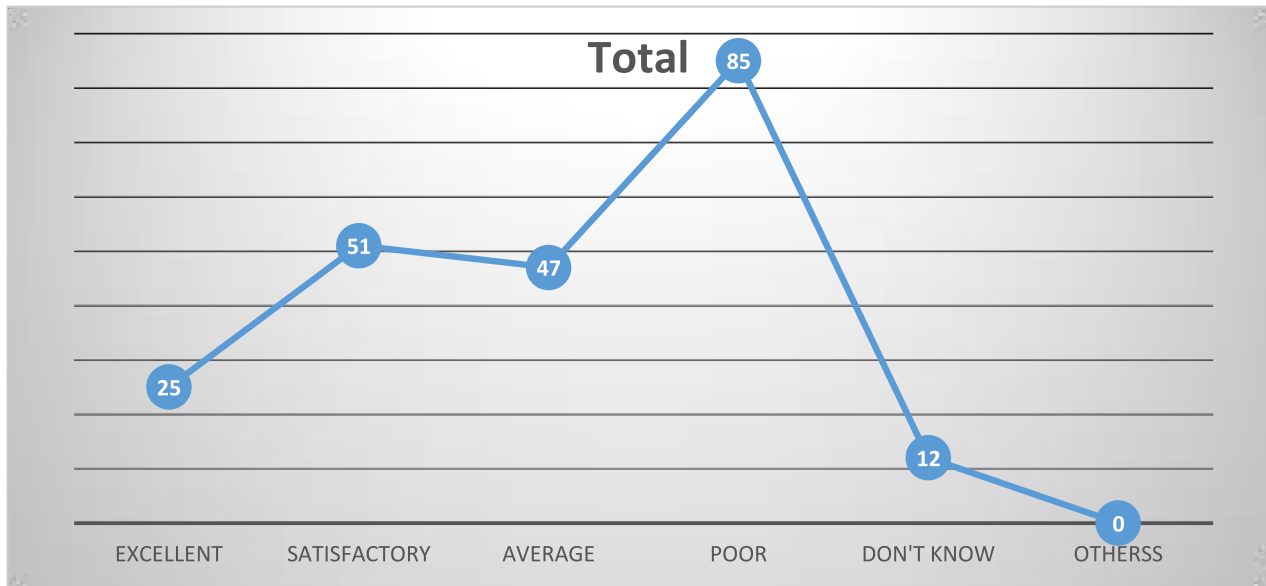
Figure 4.17: Responsibility for CDA Project Monitoring for Quality Assurance and Delivery in the Community



Thus, it is either the respondents were shying away from being taunted as fingering certain elements in the communities for poor quality project delivery (if there were) or they simply did not know who the monitors were in their communities. Where the latter is the situation, it would be more convenient and charitable for such respondents to pitch tent with the 33 respondents who said they “don’t know” who monitors projects in their communities.

Flowing directly from the project monitoring and evaluation is the question about level of satisfaction with the quality of CDA projects delivered by mining companies to their host communities. Figure 4.18 reveals that 85 respondents representing 38.29% shared the view that CDA projects in communities are poor, only 25 respondents representing 11.26% of the 222 sampled population voted “excellent”, while two other sets of 50 (22.52%) and 48 (21.62%) respondents voted “satisfactory” and “average” respectively. The remaining 14 respondents ticked “don’t know.”

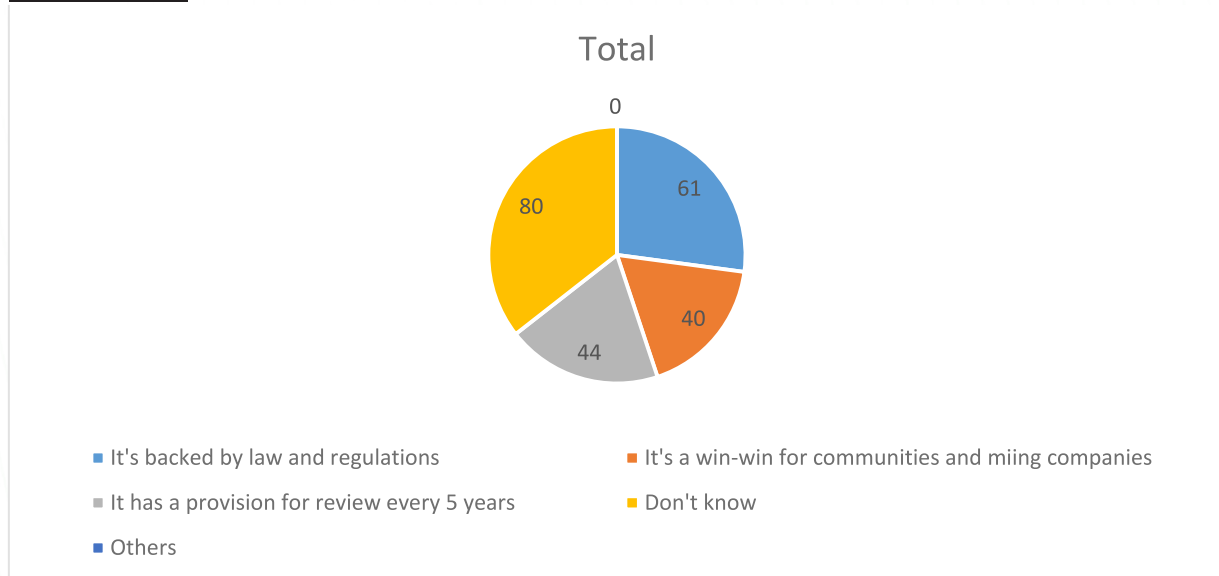
Figure 4.18: Rating the Quality of CDA Projects in the Community



Taraba State tops the list of the pilot states that rated the quality of mining CDA projects in the communities positively with 85.71% of its 49 respondents split between “Excellent”, “Satisfactory” and “Average”, while Ebonyi and Kebbi states come from the bottom with 14 and 15 respondents split between the same three options respectively. The single highest response received came from 85 (38.29%) respondents who rated the quality of CDA project delivery in the community as “poor.”

The survey had a question aimed at eliciting the most appealing of the varied features of mining CDA regime. Amongst the options of “Legal and regulatory backing”, “Win-win for companies and their host communities”, “Provision for CDA review every five years” and “Don’t know”, 74 respondents equating 33.33% expressed preference for “Don’t know” (Figure 4.19). Edo State topped the chart on this with 28 of its 40 (63.64%) respondents. Legal and regulatory backing came next with 62 respondents of which Kogi and Taraba states stood taller on the chart with 22 and 21 respondents respectively. The provision for mining CDA renewal every five years recorded 46 (20.72%) respondents, while the potential for a win-win appealed to 40 respondents representing 18.02% of the 222 sampled population.

Figure 4.19: Most Appreciated Feature about Mining CDA Regime in the Community



Across communities visited, many people lamented exploitation and unfair treatment by mining companies as they demand for social and economic benefits. Communities in Ekiti and Taraba states are about the most informed on CDA practice, apparently due to prior work done Centre LSD in the areas. To this extent, lamentations from these axes are significantly moderated, while passionate pleas have been made for further trainings and sensitizations.

The survey had an open-ended question that sought for submissions on how to strengthen CDAs to enhance better delivery of social and economic benefits of mining in communities. The question threw up an array of responses ranging from strategic planning to sectoral focus of projects. Table 4.1 highlights the top three strategies/mechanisms recommended by the respondents.

Table 4.1: Strategies for Strengthening CDA Implementation in Nigeria

NC - Kogi	NE - Taraba	NW - Kebbi	SE - Ebonyi	SS - Edo	SW - Ekiti
Broad and Inclusion of traditional rulers-in-council, elders, women and youth in the negotiation, planning, design, implementation and monitoring of projects to be complemented	Investment in service delivery projects such as healthcare, road and drainage (erosion control) infrastructures	Bridge of information and communication gap between mining companies and host communities	Prioritisation of inclusion in CDA negotiation, project planning, implementation and monitoring	Expansion of community representation slots and rotation of community representation positions in the CDA to cover all kindreds/families	Prioritisation of CDA to cover service delivery projects such as education, water and road infrastructure and be based on inclusive planning, implementation and monitoring for quality assurance.

**The Efficacy of Community Development Agreements in Mining
Host Communities in Nigeria: *Beyond Legal and Regulatory Provisions***

with periodic engagement and review					
NC - Kogi	NE -Taraba	NW - Kebbi	SE - Ebonyi	SS - Edo	SW - Ekiti
Prioritisation of more impactful service delivery project such as education, healthcare, water and road infrastructures	Proper project monitoring for quality assurance	Transparency in the documentation of agreed project priority needs for purposes of strict adherence in implementation	Transparency and full compliance with implementation of the terms/contents of CDAs	Reduction of CDA tenure renewal from five years to three years	Prioritisation of employment/empowerment programmes for local population, especially youth, women and PWDs.
Emphasis on continuous dialogue, vocational training and empowerment for women, youth and persons with disability	Employment opportunities for local people	Respect for inclusive participation of community stakeholders (traditional rulers, chiefs, elders, women, youth and PWDs)	Amendment of the Nigerian Minerals and Mining Act 2007 to effect a reduction of the every five year renewal of CDA to two years	Prioritised employment for local population and service delivery to cover education, electrification and healthcare effective mechanism for supervision/monitoring	Respect and promotion of community-company relations to promote free flow of information and bridge communication gaps

In addition to the above, other strategies such as civil society support with sensitization and capacity development, training on livelihoods, annual/biennial review and revalidation of CDAs were also placed on the table to strengthen and support the transfer of social and economic benefits of mining in host communities.

5.0 Analysis of Findings

Community Development Agreement (CDA) is a key provision in the Nigerian Minerals and Mining Act, 2007 and the Nigerian Minerals and Mining Regulations 2011. Having become popularized as a globally accepted practice for mitigating general and context-specific problems associated with natural resource extraction, Nigeria adopted its practice to seek a win-win for the three parties (namely: government, companies and communities) interlocked in the “Social contract”, “Resource contract” and “Social license” relationship in the mining sector.

Within the context of the Act establishing its practice and the regulations, the idea of CDA was construed and designed to promote *peaceful relations* between mining companies and their host communities, support *knowledge and capacity development* (i.e. educational scholarships, vocational training and employment opportunities), facilitate *infrastructural development and maintenance* in key service delivery areas (education, healthcare, roads, water

and power), provide *assistance* in creation, development and support to small scale and micro enterprises, agricultural product marketing, as well as enhance environmental and socio-economic management. Across board, this reveals interesting findings deserving of categorization and analysis.

5.1: One Policy Goal, Different Nomenclatures and Operational Approaches

Generally, it is evident that CDA exists in most of the communities visited, except that they are in some situations captured in different names. This explains why only 57.66% (128) respondents was aware about CDAs between mining companies and their host communities, while a huge 43.34% of the overall sampled population (94 persons) denied their existence or feigned “don’t know” about their existence. This brings one to the earlier expressed position that there are divergent names for CDA across countries and communities where it is practised.

Of particularly curiosity is the fact that most CDAs were not negotiated in line with legally and procedurally defined formats. In other words, contrary to the provisions of the enabling law, regulations and prescribed guidelines for producing CDA, different approaches were adopted across the different mining communities visited by the research team. This was partly confirmed in the claim by MMSD that Afao-Ekiti and Iyin-Ekiti CDAs and some other ones in Taraba State are outside its radar. It is also not surprising that a participant in the townhall meeting and FGD held for Oworo communities¹⁸ where Dangote Cement operates declined knowledge of CDA practice, arguing that to the extent to which CDAs are supposed to be products of negotiations between communities and mining companies, it will not be out-of-place to argue that there is no CDA in Oworoland. The fellow thus concluded that “the interventions in our communities are not products of mutual negotiations between Dangote Cement and host communities, rather they are products of agitation by Oworo Development Association (ODA). We appreciate the interventions, but they were supposed to be products of mutual consultation.”¹⁹ This view seems to be dominant across many other communities visited. A newly harmonized agreement with Oworo communities

¹⁸ Oworo has 30 communities, only five – i.e. Apata, Iwaa, Obajana, Oyo and Shokoshoko are where Dangote Cement currently operates.

¹⁹ The townhall and FGD were held in Lokoja, the Capital city of Kogi State on Wednesday, 24 August 2022.

of Oyo and Iwaa was signed in July 2022 which only the Kogi State government and traditional rulers-in-Council are allegedly privy to its contents.²⁰

Based on feedbacks from respondents to the survey, FGDs and KIIs, only Afao-Ekiti and Iyin-Ekiti operate a near worthy CDA model, despite MMSD's claim that they are not registered with it. The CDAs of both communities, demonstrate some appreciable intersectional representation of community people. By this, it is meant that the processes of their negotiation were relatively inclusive in that they had representation of traditional rulers, chiefs, elders, women and youth, although there was no information about the specific reference to persons with disability (PWDs). In other words, even if there were to be PWDs in any of the CDA Committees of the two communities, it could only have been that such fellow(s) got there not by virtue of being PWD(s), but most certainly by other factor(s) and/or sheer coincidence.

Thus, for all other communities ranging from Kamtu and Daranna in Kebbi State, Serti and Jamtari in Taraba State, Ikpeshi in Edo State, Oshiri and Okposi in Ebonyi State and Oworoland housing Apata, Iwaa, Obajana, Oyo and Shokoshoko in Kogi State, CDAs are largely negotiated by companies with the traditional rulers-in-Council without the inputs of the larger community representatives and the under-represented groups depicted by women, youth and PWDs.

In Ikpeshi, Edo State, the youth have since 2013 been suspended from participating in the community's negotiation and decision-making with mining companies for causing a stir in which guns were allegedly used. The community has not had a traditional ruler since 2011 when their king passed away, prompting succession dispute and litigation that has now reached the Supreme Court. The community is currently governed by a committee of representatives of the six heritage kindreds further expanded to cover the overall 18 families of the community. While the representatives of the six heritage kindred are executive members in that they relate with Akoko-Edo Local Government Council where the community belongs administratively, the remaining 12 of the expanded body are ordinary members only to the extent of their participation in community governance, including CDA negotiation.

²⁰ See relevant section of Table 5.1 for a summary of its contents.

Until very recently (two to three months from the time the research team visited) “CDA projects” in Ikpeshi were implemented by individual companies. Such projects were arrived at through a submission of Memorandum of Understanding (MoU) by a company to the community for review and adoption before being implemented. The dissolution of the immediate past community steering committee and its replacement by another – now structured to reflect a three-year non-renewable tenure – has seen the re-organisation of CDA in the community into a “global”/collective approach to checkmate perennial problems of project abandonment, requiring rescue by the community.

With obviously limited knowledge of the process demonstrated by respondents to the survey and participants in the FGDs and KIIIs during data collection for this study, it is clear that virtually all the communities visited lack the requisite capacity and skills to negotiate the maximum benefits that are compensatory for the quantum of minerals extracted from their communities. This explains why most of times, it is the mining companies that call the shot. They do not only practically draft the CDAs for the communities to sign, they have also unduly influenced community lawyers to accept the proposed projects (benefits) to host communities. That some companies still renege on implementation of such CDAs, thus resulting in petition to the Ministry of Mines and Steel Development (MMSD) which has also sometimes delayed response to such complaints underscores how some communities are continually pushed to the edge.

Unlike many people who shared the view that they are neglected and/or kept out of managerial positions in the area of employment by mining companies in their communities, Ikpeshi people are engaged in both direct and indirect employment in the mining activity in their community. Majority of those engaged in mining are either linking up with investors to do manual mining and getting paid daily in accordance with the quantity of minerals mined or they are employed to work in the mining companies. An investor in Ikpeshi, Edo State, told the research team that about 80% of workers in the quarries are indigenes of the community, while 10% of those handling white collar responsibilities in the mining companies in the community are also indigenes. This is a far cry from other mining communities visited. Apart from Serti and

Jamtari in Taraba State (to a lesser degree), there is nowhere such a high percentage of people are involved in mining across the communities visited by the research team.

Besides employment of community workers in gold mining sites, rural electrification and feeder roads are the biggest investment by Yomed Nigeria Ltd in Kamtu community in Fakai Local Government Area of Kebbi State. The rural electricity project runs aluminium conductor over a distance of 36 poles with a transformer installed close to the company, for alleged reasons of safety and prevention against vandalism (see Figure 5.1).

Figure 5:1 CDA Rural Electrification Project Executed by Yomed Nigeria Ltd in Kamtu, Kebbi State



Sino Minmetals Co. Ltd has also provided (two) boreholes and rehabilitated one block of classrooms in Daranna community as captured in Figures 5.2 and 5.3. The research team was also shown a mosque being completed by the company in Gendene community in the same Bagudo Local Government Area) where the company's office is located, although the former had queried what specific development importance the rehabilitation of a religious edifice has in the face of starring poverty and underdevelopment.

Figure 5.2: CDA Project of School Rehabilitation by Sino Minmetals Co. Ltd in Daranna Community, Kebbi State



Figure 5.3: CDA Project of Borehole in Daranna Community, Kebbi State



Dangote Cement has also built physical infrastructures such as drilling of borehole and renovation of primary school in Iwaa community in Oworoland. In the last quarter of 2021, the company delivered 10 tricycles (Keke NAPEP) to Obajana (3), Apata (1), Oyo (3) and Iwaa (3), while nothing was offered Shokoshoko community. There is also the construction of Obajana-Kabba road which the people do not count as a CDA output, but a tax deductible project.

Ikpeshi community in Edo State has received two Boreholes drilled in Udugborevo and Afoyelse as well as other uncompleted and/or abandoned projects such as a townhall which was started in 2010, Police Station (2017)

and a re-roofed block of six classrooms in the community secondary school (2022). Figures 5.4 and 5.5 are two boreholes, transformer, and abandoned police station, and Townhall projects in Ikpeshi community, Edo State

Figure 5.4 CDA Projects on Water and Electricity in Ikpeshi, Edo State





Borehole project delivered in Udugborevo Quarters in Ikpeshi



Transformer delivered to Ikpeshi community

Figure 5.5: Abandoned CDA projects in Ikpeshi, Edo State



Abandoned Townhall project started in 2010 in Ikpeshi



Abandoned Police Station Project along Auchilgarra Road started in 2017 now being developed through community efforts in Ikpeshi

CDA project in the area of education saw the re-roofing of a block of classrooms in Ikpeshi Secondary School in 2022 as shown in Figure 5.6.

Figure 5.6: 2022 CDA Project of a Re-roofed Block of Classrooms in Ikpeshi



In Oshiri community, Onicha Local Government Area of Ebonyi State, a bridge was built, while roads were graded in three mining communities (Amoakpara, Umuorie and Amankalu) where Goodnews, Franz Abbason and Dofmetal quarry companies operate. There are 16 villages altogether in Oshiri.

Besides physical structures, there are also many non-tangible CDA projects financed by mining companies in their host communities. For instance, in 2017, a student from Oyo village in Oworo federated communities was awarded scholarship by Dangote Cement to study Computer Science in the United States. The fellow has since completed his studies and returned to Nigeria. The research team was also informed that scholarships have been offered in Oshiri and Afao-Ekiti communities in Ebonyi and Ekiti states respectively. More specifically, the scholarship scheme in Afao-Ekiti State covers the following:

- N5,000 monthly stipend for four indigent primary school pupils,
- N7,500 monthly stipend for four indigent secondary school students, and
- N100,000 annual stipend to four indigent students

Afao-Ekiti CDA projects also comprise Secondary Schools' Quiz and Debating competition where the four top winners receive N50,000, N30,000, N20,000 and N10,000 respectively. Outside formal education, the Afao-Ekiti CDA has also facilitated vocational empowerment for 10 young people to learn any trade(s) of their choice, while 20 women are selected for empowerment through payment of N20,000 each to 10 women, and another N10,000 for 10 others. Dangote has a similar empowerment scheme that is defined by annual payment of N20,000 to farmers and N20,000 each to 20 secondary students, while Goodnews Multi-Purpose Cooperative Ltd also said it has instituted

scholarship of N100,000 each to 32 higher institution students across the 16 villages of Oshiri (two per village).²¹ See Table 5.1 for summary of contents of the agreed CDA projects in some of the communities visited for this study.

Table 5.1: Summary of Contents of the Agreed CDA Project in some Mining Communities.

S/N	Parties	Summary of Agreed CDA Projects	Duration
1.	<u>EKITI STATE:</u> Afao-Ekiti Community and IBD Impex Quarry (Irepodun/Ifelodun LGA)	<ul style="list-style-type: none"> • <i>Welfare of Afafao-in-Council</i> • <i>Education:</i> (scholarship to selected indigenes at primary, secondary and tertiary institutions; sponsorship of inter-school literary, quiz and debate competitions) • <i>Women empowerment:</i> packages for selected traders and elderly/petty traders • <i>Youth empowerment:</i> sponsorship of vocational training and start-up packs • <i>Sports and cultural development:</i> Sponsorship of annual competitions and price-giving in football and local games (Ayo) and cultural display • <i>Public relations and hospitality:</i> Gift to churches, mosques and social organisations • <i>Road maintenance:</i> Grading and stone-based work with company products 	Oct2021- Sep 2026
S/N	Parties	Summary of Agreed CDA Projects	Duration
2.	<u>EKITI STATE:</u> Iyin-Ekiti Community and Best Stone Solution International Ltd (Irepodun/Ifelodun LGA)	<ul style="list-style-type: none"> • Safety of life and properties: Precautionary measures during blasting • Renovation of Palace of Oluyin-in-Council with furniture and secretarial equipment (1st year) • Construction of lock up shops at Iyin new market (2nd year) • Provision of skill acquisition and financial empowerment for selected youth and women • Provision of drugs to health centre and their renovation with windows and mosquito nets • Construction of 2 boreholes (4th year) • Provision of skilled and non-skilled employment to indigenes of the community • <i>Road maintenance:</i> Rehabilitation of 5km Iyin township road and Iyin-Ilawe road through grading & drainage (4th year) • <i>Decommissioning:</i> Restoration of excavated and explored land to an environmentally safe state after mining activities. 	Jun2021- Jun2026
3.	<u>KOGI STATE:</u> Oyo & Iwaa communities and Dangote Cement PLC (Lokoja LGA)	<ul style="list-style-type: none"> • <i>Water:</i> Delivery of 3 generator-powered boreholes in each of the 2 communities in 2022, 2023 & 2024) • <i>Roads and other allied infrastructure:</i> Maintenance of internal roads in the communities on need basis and construction of 5 culverts in each of the villages during the duration of the agreement 	Jul2022-

²¹ Two per village. Interview with Nwabueze Nwali, company spokesman, at the CDA report validation meeting held in Enugu on 7 February 2023.,

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		<ul style="list-style-type: none"> • <i>Educational infrastructure:</i> Provision of 3 blocks of 3 classrooms with the first tranche having toilets, 2 offices and a common room, and the other tranche having toilets and staff common room in each of the mining communities, subject to the communities having met all the registration requirements for establishment of a UBE secondary school in year 2022 for the construction to happen, one each in 2023, 2024 & 2025. Teaching aids to be provided. fully equipped ICT-based library to be provided in each of the communities in 2026 • <i>Health infrastructure:</i> Provision of money in 2022 to address upgrading needs of each clinic in each of the mining communities subject to the inspection/need assessment carried out by CDC members and the medical personnel of Lokoja local government. Health talk/seminar to be conducted every 6 months in each of the mining communities. • <i>Scholarship:</i> for each community per year) • <i>Micro-credit:</i> Two tranches of money to be released in 2022 and 2024 to micro-credit services and enterprise development already started through Dangote Cement PLC support in each of the mining communities). • <i>Employment:</i> Provision of employment, including managerial positions to qualified and competent members of mining communities, subject to existing national policy on employment – skilled and unskilled workers) • <i>Contracts:</i> Provision of contracts to suitably technically qualified and commercially competitive indigenous contractors with the right equipment, management team and financial strength and with past track record of similar type of contracts as well as technical and contract value). 	Jun2027
S/N	Parties	Summary of Agreed CDA Projects	Duration
4.	<u>KEBBI STATE:</u> Daranna Community and Sino Minmetals Co. Ltd (Bagudo LGA)	<ul style="list-style-type: none"> • <i>Completion and upgrade of incomplete projects:</i> including replacement of faulty components of boreholes in Daranna, Bakinruwa & Buya. • <i>Road maintenance:</i> Maintenance of Daranna/Gendene Road • <i>Water (Boreholes):</i> Provision of boreholes with one horse power submersible water pump, 10,000 litres’ water tank, 4.5 petrol KVA power generating set & water dispensing tap. • <i>Health:</i> Building of primary healthcare facilities • <i>Education:</i> Building of block of classrooms • <i>Financial contribution:</i> Provision of support for maintenance of facilities (i.e. petrol for generating set for pumping water and medical expenses for pregnant women and indigent people in the community) • <i>Employment:</i> Employment of staff at a rate within the prevailing the minimum wage. Dams and bridge culverts: Construction of dams and bridge culverts that hold water for animals within community 	Dec2020- Nov2025

Source: Compiled from the CDAs.

Okposi community in Ohaozara Local Government Area has a peculiar challenge in its CDA negotiation with Burnsville Integrated Services Ltd allegedly owned by a former Governor of one of the South East states. The

company has already constructed access road to its site half way and also built houses unto which families to be affected by its quarry operations are billed to be relocated. However, intra-community dispute has stalled the take-off of operations and financing of the negotiated agreement to provide scholarships for 20 community students, rural electrification and townhall.

5.2: Deficit of Intersectional Representation and Benefits

There is something peculiar about the demography of the respondents in the study and their responses to the survey and other data sourced from the field that is worthy of exposition. That has to do with the deficit of intersectional representation observed in form of structural dynamics of discrimination and victimhood of some social categories of stakeholders negatively impacted in mining CDA practice. Unless deliberate efforts are made to strengthen intersectionality and ensure a better way of transfer of social and economic benefits to mining communities, chances are that gaps of marginalization of under-served groups such as women, youth and persons with disabilities (PWDs) will be further widened.

Exclusion being already a major problem across diverse sectors of human endeavours, the world of reality of people affected by its practices is that of discrimination and oppression. Intersectionality policy is thus an “acknowledgement that, both individually and collectively, people face “their own unique experiences of discrimination and oppression” deserving of redress through a more inclusive development-oriented participation.²²

This is necessary because in a world of diversity, it is inherent in some persons to find it difficult to freely relate with one another on the principle of one humanity without having to input other considerations such as ethnicity, gender, age, religion, (dis)ability, class, culture and sexuality as shown in Figure 5.7.

²² A. H. Monjurul KABIR. Why we must consider an intersectional approach for inclusive development. Available at:

Figure 5.7: Intersectionality of Group Representation



Source: A. H. Monjurul KABIR. Why we must consider an intersectional approach for inclusive development. Available at: <https://www.linkedin.com/pulse/why-we-must-consider-intersectional-approach-inclusive-kabir/>

Indeed, the Sustainable Development Goals (SDGs)' maxim of "leave no one behind" regardless of diverse social identities of people finds meaningful expression of healing the discrimination and oppression depicted in exclusionary practices such as conveyed in the CDA regime.

Thus, within the context of experience from the field, the study has shown that the social demographics of mining CDA negotiation and implementation have heavily marginalized and excluded women, youth and PWDs. The only explanation for this structural barriers and jinx of domination which must be neutralized, is embedded within the context of an understanding of the usual biases and burdens that the three groups suffer.

Already, data from the survey delivered mix-results of the sample size of the population of youth, women and PWD respondents as 49.55% (110), 19.37% (43) and 1.5% respectively. While youth constituted almost half of the respondents in the survey, the observed deficiency of non-representativeness in the data on women and PWDs' participation in CDA negotiation and implementation was also complemented by information obtained from other field sources. Curiously, a disaggregation of the intersectionality of the data points to several "dimensions of vulnerability and make visible those people who are most marginalized in specific contexts",²³ thus deserving of deliberate support for inclusive justice.

²³ Ibid.

Within the context of the under-representation portends by 43 women (19.27%) out of the 222 respondents to the survey, an intersectionally disaggregated data of the diverse variables listed under the demography revealed structural barriers and norms that promote imbalance in CDA practice in the mining sector. Where they intersect with youth and PWDs, and other demographic variables such as age, education, occupation, marital status, annual income and status in community, they deepen the marginalization and oppression.

For instance, the conditions of women excluded from mining CDA negotiation in communities are more likely to be worse off when combined with being youth, and even eclipsed when matched with the insignificant figures of PWDs whose care are often added responsible unto women. This is easy to understand, given that they bear the burden of trekking long distance to fetch firewood and water in many rural communities ravaged by mining-induced deforestation and water pollution. This itself has been alleged to cause intercommunal disputes and violent conflicts in Ebonyi State.²⁴ Thus, to fulfil household obligations in environmentally devastated mining communities, for instance, it is the girl-child who would go to school late; and when it becomes expedient to prioritise between education and attendance to house chores in the community, the girl-child is the most likely to be asked to abandon the former for the latter.

As much as they sacrifice for communities, women – (especially those who combine their victimhood of being women with being youth and disabled) are hardly remembered for inclusion in mining CDA project identification, conceptualization, negotiation and implementation. Across the six pilot states visited for this study, women were conspicuously missing from the list of the only three respondents noted with disabilities. In other words, they are further excluded in their already marginalized condition.

Similarly, none of the female respondents in the survey identified herself as either divorced or separated from her spouse. The age stratification of the 43 female respondents revealed that 19 (8.56%) of the youth among them

²⁴ This according to an informant at the validation meeting for South East and North-Centrel held in Enugu on 7 February 2023.

hovered between ages 18 and 35. Another 14 (6.31%) had their age ranged from 36-59, while the remaining 10 (4.5%) ranked 60 years and above (senior citizens).

Educationally, no less than 32 of the female respondents were educated in the formal sense of primary, secondary and tertiary education, while the rest were educated in some other alternative forms – probably Islamic ways. About half of the female respondents (23) were married, while 10 and 4 of them were singled and widowed respectively.

Also, 40 of the 43 female respondents to the survey were residents/indigenes of the mining communities visited, with Taraba State recording the highest number of 16 respondents, while only three others, all of Afao-Ekiti community, were company workers. Interestingly, 13 (5.86%) of the 43 female respondents to the survey skipped the question on income, drowning popular claim that men are most likely to skip (or even exit) surveys requiring income disclosure. Of the remaining 32 female respondents representing (14.41%) of the overall 222 sampled population, 19 earned less than N200,000 per annum with Ekiti and Taraba states sharing seven respondents apiece. Three female respondents earned between N200,001 and half a million Naira. Another nine earned N500,001–N1.2 million, while only one respondent operated at an annual income bracket of N2 million and above.

Overall, what intersectionality depicts in this analysis is that except there are deliberate efforts to give voices to under-represented groups such as women, youth and PWDs in CDA negotiation and implementation, many communities will not only be stripped of social and economic benefits anticipated in the minerals and mining law and regulations, but will continue to grope in the dark of underdevelopment. This is because it takes balance and collective planning and action to achieved community development.

5.3. Functional CDA for Modelling

A key requirement in the terms of reference for this study was to identify and recommend lessons of functional CDA models from other climes. This, if anything, takes into account the fact that there is no possibly one size-fit-all approach to producing mining CDAs. Even under the same legal regime, the study did not find any largely uniform CDA practice across the

communities/states visited and even the different countries cases reviewed. To this extent, a country's approach to CDA negotiation and implementation is defined by several elements of historical, cultural, socio-economic and political experiences. Thus, deriving from the findings in the mining communities and states visited and the CDA legal regimes of some of the African countries reviewed for this study, some eclectic lessons are worth exploring for some amenable fragmental practices for building a functional CDA model for Nigeria.

Within the framework of the Nigerian Minerals and Mining Act, 2007, the experience of CDA implementation in Afao-Ekiti and Iyin-Ekiti are worthy of emulation in building a functional CDA model. Aside the absence of specific mention of PWDs, the composition of CDA committees in these two communities passed the test of intersectionality, given the involvement of traditional rulers-in-council, elders, women and youth, all of whom are organized under the Afao Development Council (ADC) and the Oluyin-in-Council. Although the committed funds for CDA projects may appear modest, both communities have demonstrated the drive and understanding of not only how CDA should function to the relative benefit of parties, but also the requisite wisdom to prioritise long term community benefits over pecuniary interests of individuals. Interestingly, both communities appreciated the training and sensitization efforts of Centre LSD in this regard.

In particular, ADC demonstrated good record-keeping of CDA spending by IBD Impex in Afao-Ekiti. Some people in both communities expressed their desire to see the next CDA review and renewal, while the Oluyin of Iyin-Ekiti expressed his community's appreciation to Centre LSD for the opportunity to be one of the focal points for the study. He made a passionate appeal for further sensitization and training to enable his subjects gained the requisite knowledge and experience for better engagement with the quarry company – i.e. Best Stone Solution Ltd – in the community. Similarly, Oshiri and Okposi communities in Ebonyi State as well as Ikpeshi and Oworo communities in Edo and Kogi states (respectively) expressed similar interests.

Secondly, the experience of Burkina Faso, Congo DR, Ghana and South Africa in legislating for CDAs to be funded from royalties may be worth studying and remodelling for adoption in Nigeria. Notwithstanding the obvious poor compliance to "Agreement" approach due to poor monitoring, the government

may want to remodel along the line of the current Host Community Development Fund (HCDF) enshrined in the Petroleum Industry Act, 2021 where allocation for community development is pre-determined in percentage of revenues to fund community development projects as it is practiced in Guinea and, Niger and Sierra Leone.

A third fragment of a CDA model that is worth considering for implementation in Nigeria is the Namibian legal provision for the designation of certain social category of persons in mining communities such as *youth* and *women* for poverty reduction attention to bridge the observed challenge of intersectionality.

Also, a CDA legal regime that provides for suspension and revocation of mining licenses as punishment for any substantial non-compliance to the requirements of law and regulations stands the chances of placing Nigeria in the league of such African countries like Kenya, South Africa and South Sudan where it is practised. While provisions for license withdrawal on the basis of violations may be already contained in Nigeria's enabling law as alluded to by officials in the MMSD, the fact is that they are not known to have been activated since the law and regulations came into effect.

Finally, notwithstanding the periodic (five yearly) reviews of CDA, the requirements for periodic reporting (say annually) of implementation of CDA activities as done in South Africa and Sudan could be made an institutional practice as a model of functional CDA regime in Nigeria. Although the MMSD has alleged that it exists, but not to the level of extant institutional practice. To the extent to which what is worth doing at all is worth doing well, the practice will go a long way in strengthening CDA practice in Nigeria.

6.0: Conclusion and Recommendations

Community development agreement (CDA) is one of the several governance mechanisms for redressing the multi-dimensional conflicts plaguing natural resource-rich countries around the world. It emerged from the inadequacy of unilateral regulatory efforts of government and voluntary initiatives of companies to deliver standard services that meet the development concerns of resource-rich countries.

In most contemporary sense, CDAs have become a highly progressive approach in not only resolving company-community disputes and violent conflicts over natural resources extraction, but also in promoting peaceful relations through information sharing and dialogue. In the mining sector where it has assumed significant use, CDAs are construed to help resolve the tensions between the growing demand for natural resource extraction by companies and the sustainable development of communities. To this extent, they are negotiated through a process of consultation as well as designed in a manner aimed at ensuring that communities share in the large-scale investments of mining companies as compensation for the negative impact of mining activities.

Progressing on the reforms that started in the mining sector in the 1980s, the provisions for CDAs are well documented in the *Nigerian Minerals and Mining Act* (2007), the *Nigerian Minerals and Mining Regulations* (2011) and the *Guidelines for the Development of Community Development Agreement in the Solid Mineral Sector* (2014). This study reviewed mining CDA practice in Nigeria within the context of the extant provisions of these documents after a long time of practice. The report revealed a mix-grill of successes and gaps in implementation, relying on both quantitative and qualitative data sourced from both primary and secondary sources. The work saw the research team travelled to many mining communities and states drawn across the six geopolitical zones with an eye for intersectional inclusion in CDA project negotiations and implementation.

The intersectional disaggregation and analysis done in the study gave specific focus on women, youth and PWDs in special recognition of the brunt they bear of mining dislocations in communities. Mining-induced water pollution and deforestation put enormous pressure on women, their children and PWDs who spent many hours to trek longer distance to get replacements for water and cooking firewood for their families. This often resulted in lateness, and sometimes abandonment of school.

Thus, to deny such critical social categories of community people the opportunity to participate in CDA project negotiation, planning and implementation process which potentially would factor in their needs and transform their lives is to exclude and double marginalize them. It is in this context that the CDA governance regime in Afao and Iyin communities of Ekiti

State – despite their relative inadequacies – came near to a suitable model worthy of recommendation for emulation due to widespread representation of all the social categories of persons in the community. For them to meet the real model to be advocated for adoption in Nigeria, other fragments of eclectic practices provided in the laws and practices of other African countries were also reviewed and recommended without undermining the key argument advanced that there cannot be one-size-fit-all-approach for designing a functional CDA model in Nigeria or anywhere else in the world.

Recommendations

A. Government:

The government should pursue:

- Law review leveraging specific good practices of other climes, particularly amendment of the Minerals and Mining Act 2007 and the Minerals and Mining Regulations 2011 to remodel CDA to reflect the Petroleum Host Community Development Fund model. By this, it is meant that Nigeria should adopt a “Fund/Incorporated Trust Approach” to CDA implementation with involvement of states and local governments as against the present practice which places communities at the mercy of mining companies who play lords of the manor;
- Leveraging the Natural Resource Development Fund (NRDF) to prioritise capacity development of mining communities on CDA negotiation, project planning and monitoring in the Incorporated Fund/Trust;
- Review and popularization of the Minerals and Mining Regulations 2011 to emphasise intersectional representation in CDA committees. It should also, in collaboration with civil society, lead to a review of MMSD’s *Guideline for the Production of Community Development Agreement in the Solid Mineral Sector* (2014) to provide for intersectionality to become a stand-alone issue as against its currently subsumed placement in Chapter One, Section 2.2 covering *Stakeholder Participation*. In that way, marginalization of under-represented groups such as women, youth and PWDs will be taken care of.
- Insistence on benchmarking CDA negotiation against MMSD’s *Guideline for the Production of Community Development Agreement in the Solid Mineral Sector* (2014) to enhance appropriate implementation monitoring of outputs and outcomes.
- Strengthening of Mining Environmental Compliance (MEC) Department of the MMSD to ensure effective monitoring and enforcement of compliance of provisions in the Minerals and Mining Act (2007) and the

Minerals and Mining Regulations (2011) through adequate recruitment of staff with the requisite capacities to deliver on their state-level responsibilities;

- Insistence on compliance with provisions in the Minerals and Mining Act (2007) and Guidelines (2011) that CDAs are a pre-condition for commencement of mining operations in communities and not an after-commencement of mining operations;
- Recognition of community rights to receive MMSD response to complaints about companies' breach of the terms of duly signed CDAs as part of early warning, early response mechanisms for conflict prevention and resolution; and
- Institutionalisation of feedback mechanisms which should include annual reporting and appraisal of CDA implementation by CDA Committee through MEC officers in the states to MMSD and activation of social protection policy for CDA and project documents.

B. Mining Companies

Mining companies should ensure:

- Prioritisation of community happiness, while pursuing profit. This includes addressing genuine needs of the community and paying due attention to labour laws, especially CDA-propelled employment issues of payment of minimum wage and guarantee of Health, Safety and Environment (HSE) rights;
- Conceptualisation of community benefits beyond money-sharing to capture more sustainable benefits in the areas of education, infrastructure, employment, development of local economy as well as trainings that address challenges of socio-economic problems,
- Adoption of collaborative CDA models in communities with small-scale mining companies to maximize development impact.
- Resistance to temptation to engage in divide and rule approach to CDA project negotiation, implementation and monitoring.

C. Communities

Mining communities need to ensure:

- Moderation of expectations and obsession with pecuniary gratifications over more enduring long time community interests and benefits;
- Prioritisation of Human Development-inclined projects than worship centres during CDA project negotiation and execution;

- Targeting of CDA to Leverage diverse opportunities in the mining value chain to grow local economy, including taking advantage of formalisation of mining cooperative societies in small and medium-scale artisanal mining;
- Inclusive representation of the different social groups in the CDA governance structure for purposes of intersectional balance (women, youth and PWDs); and
- Collective responsibility for CDA project negotiation, implementation and monitoring for quality assurance.

D. Civil Society

There is so much civil society can do to ensure:

- Sensitisation and facilitation of trainings for communities to enhance their capacity and ability to articulate and negotiate good deals with mining companies;
- Monitoring of implementation terms and specifications of CDA projects for quality delivery;
- Collaboration with the MMSD to review, update, mass-produce, circulate and train communities on the 2014 *Guidelines for the Production of Community Development Agreement in the Solid Mineral Sector*;
- Engagement with relevant stakeholders in the mining sector (including Miners Association of Nigeria and Women in Mining in Nigeria) on the desired reforms of CDA practice and the need for self-regulation and self-censorship; and
- Facilitation of development of broad-based metrics/instruments for shadow-reporting and ranking parties in CDA implementation (CDA Watch/Index) in Nigeria.

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Headquarters:

3B, Niger Avenue, Villa Nova Estate,
after Cedar Crest Hospital,
Apo Dutse, Abuja.

Niger Delta Office:

Odeyovwi Villa, Emonu-Orogun,
Ughelli North LGA, Delta State.

Northern Regional Office:

N0. 220-221 Police Shop, Waziri street,
Opposite Murtala Mohammed College,
Jimeta, Yola, Adamawa State.

 08122556434

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